

JAN 08 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 08-90006

**ORDER****KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a magistrate judge. Complainant, a pro se prisoner, filed a civil rights action in district court. The matter was referred to the subject judge.

Complainant alleges that the judge delayed the resolution of his case. Delay is cognizable where, as here, “the allegation concerns . . . habitual delay in a significant number of unrelated cases.” Judicial-Conduct Rule 3(h)(3)(B). A limited inquiry reveals that the delay in screening complainant’s civil rights complaints was due to a backlog of cases at the district court. Complainant hasn’t included any objectively verifiable proof showing that the judge in any way improperly contributed to the court-wide delay. The Judicial Council is currently investigating the problem of delay in prisoners’ cases throughout the district to determine what resources are needed to resolve the problem. The Judicial Council’s inquiry makes further action on this complaint unnecessary. See 28

U.S.C. § 352(b)(2).

**CONCLUDED.**