

JAN 09 2009

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

No. 08-90027

ORDER**KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se prisoner, filed a habeas petition in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge unduly delayed consideration of his habeas petition. Delay is not cognizable “unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” Judicial-Conduct Rule 3(h)(3)(B). Complainant provides no evidence of improper motive or habitual delay here. Nor was the delay extraordinary; a review of the docket discloses that the judge ruled on two of complainant’s motions and transferred his case to another jurisdiction three months after the petition was filed.

DISMISSED.