

JUN 25 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALSJUDICIAL COUNCIL  
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF  JUDICIAL MISCONDUCT
---

Nos. 09-90022 and 09-90023

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

Complainant, a pro se litigant, alleges that a district judge and a magistrate judge made various improper substantive and procedural rulings in his civil case. These charges relate directly to the merits of his case and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not the proper vehicle for challenging the judges' rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant next alleges a “pattern and practice of arbitrarily and deliberately disregarding prevailing legal standards . . . .” Complainant provides no proof of this allegation other than the alleged errors in his own case. A single case is obviously insufficient proof of a pattern. See In re Charge of Judicial Misconduct, 613 F.2d 768, 769 (9th Cir. Jud. Council 1980).

Complainant also alleges that the judges made inappropriate comments,

were biased against him on account of his race and were hostile towards him. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009). Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judges unduly delayed resolving his case. But 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). Here, complainant provides no evidence of habitual delay or improper motive. See In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009). Nor was any delay extraordinary; the judges ruled on all motions within six months.

Finally, to the extent that complainant makes allegations against the defendants in his civil case, these charges must be dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

**DISMISSED.**