

APR 06 2010

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

Nos. 09-90136 and 10-90004

ORDER**KOZINSKI**, Chief Judge:

Complainant, a pro se prisoner, alleges that the magistrate judge assigned to his civil case unduly delayed the screening of his amended complaint. 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); In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009). Neither of these is present here. The docket reveals that the judge screened complainant’s amended complaint, and the other complaints described to support this allegation, within a reasonable time.

Complainant also alleges that the judge retaliated against him after he filed the initial misconduct complaint by granting defense motions and by displaying a spiteful attitude towards him. Complainant hasn’t provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial

Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Adverse rulings do not constitute proof of bias. Complainant argues that the judge denied complainant an extension of time while granting defendants similar extensions. But a review of the docket shows that the judge liberally granted both sides extensions of time and suggests no favoritism. Because there is no other 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).

DISMISSED.