

FILED

MAY 10 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 09-90164 and 09-90165

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that the district and magistrate judges assigned to his civil case purposely delayed screening of his complaint. Delay isn't misconduct unless it's habitual or improperly motivated. See Judicial-Conduct Rule 3(h)(3)(B); In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009). Complainant provides no evidence of improper motive or habitual delay here.

Complainant also alleges that the judges were biased against him based on his race and ethnicity, and conspired with defense counsel. But 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 or conspiracy. 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).

DISMISSED.