

SEP 07 2010

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

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

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 09-90196, 09-90197 and
09-90198

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that two district judges and a magistrate judge made various improper substantive and procedural rulings in three civil cases, and were biased against him on account of his race and disability. I dismissed two previous misconduct complaints in which complainant raised the same allegations against the district judges. See In re Complaint of Judicial Misconduct, Nos. 09-90027, 09-90062 and 09-90063 (9th Cir. Jud. Council 2009). To the extent that the current complaint repeats the same allegations made in the prior complaints, those charges are summarily dismissed. See 28 U.S.C. § 352(b)(2); In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. 2009).

The charges of bias and discrimination newly raised against the magistrate judge are dismissed because they are not supported by objectively verifiable proof. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). And the

allegations that the magistrate judge made improper rulings must be dismissed because they are merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant is reminded that his various requests, including those for the judges' recusal and for the appointment of counsel, are for relief unavailable under the misconduct complaint procedure. See Judicial-Conduct Rule 11(a). Further, complaints against the judges' law clerks and staff, the defendants and their lawyers are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant is cautioned that a "complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints." Judicial-Conduct Rule 10(a); see In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.