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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 09-90025 and 09-90126

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that the district judge and the magistrate judge assigned to his civil case committed various substantive and procedural errors. But allegations relating directly to the merits of a judge's rulings can't be vindicated through the misconduct procedure. These charges are therefore dismissed. 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 also alleges that the judges were conspiring with the defendant to force him to quit his job, to prevent him from obtaining discovery and to "kill" his case. Complainant hasn't provided any objectively verifiable proof of this alleged conspiracy, so the charge must be dismissed. 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. Jud. Council 2009).

Complainant further alleges that the district judge unduly delayed ruling on

one of his motions. Delay is not cognizable in a misconduct complaint “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). Complainant provides no evidence of improper motive or habitual delay so this allegation must also be dismissed.

Finally, complainant’s allegations against his defendant are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.