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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

Nos. 10-90124 and 10-90125

ORDER**KOZINSKI**, Chief Judge:

Two prisoners jointly filed a misconduct complaint alleging that “a biased, hate-filled, corrupt Art. III Federal Judge” decided to “gut” one of their civil cases by issuing orders that gave defendants a “Free Ride.” But complainants cannot challenge the merits of the district judge’s orders through the misconduct complaint procedure. 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). Nor do complainants’ vague insinuations constitute proof that misconduct occurred. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainants imply that a second district judge should have granted a motion to recuse the first judge. This charge relates directly to the merits of the second judge’s ruling and must therefore be dismissed. See In re Complaint of Judicial Misconduct, 570 F.3d 1144, 1144 (9th Cir. 2009). A failure to recuse may constitute misconduct only if the judge “deliberately failed to [recuse] for illicit

purposes,” which was not alleged or shown here. Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146 (2006) available at <http://supremecourt.gov/publicinfo/breyercommitteereport.pdf>.

Complainants further allege that an entire division of a district court has a “long, standing practice . . . [of] violating the U.S. 5th, 6th + 14th Amend. to the U.S. Constitution” because motions to disqualify filed there are “routinely denied (fixed before hand), without proper consideration!” But complainants provide no evidence to support this allegation, which must therefore be dismissed as well. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainants’ allegations against court staff are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.