

APR 18 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 10-90168

ORDER**KOZINSKI**, Chief Judge:

A pro se prisoner alleges that a district judge made various errors in his case. These charges are dismissed as 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 further alleges that the judge improperly delayed ruling on his habeas petition. But delay isn't cognizable misconduct "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). Complainant provides no evidence of any such motive or habitual delay, so this charge must also be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). Complainant similarly fails to point to any evidence supporting his claims that the judge conspired with the government and knowingly admitted manufactured evidence and perjured testimony. See In re Complaint of Judicial Misconduct, 630 F.3d 968, 969–70 (9th Cir. Jud. Council 2010).

Complainant requests a hearing on his habeas petition, but that form of relief isn't available through the misconduct complaint procedure. See 28 U.S.C. § 354(a)(2); In re Complaint of Judicial Misconduct, 630 F.3d 1262, 1262 (9th Cir. Jud. Council 2011). And complainant's allegations against counsel and law enforcement officers must be dismissed because the procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.