

**FILED**

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

JAN 20 2012

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

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 11-90162, 11-90163 and  
11-90164

**ORDER**

**KOZINSKI**, Chief Judge:

A pro se prisoner alleges that three circuit judges improperly and too hastily denied his motion to recall the mandate in the appeal of his habeas case. This allegation relates directly to the merits of the judges' rulings and must therefore be 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 further alleges that he heard from unnamed federal public defenders that the judges ordered “staff to summarily deny [his] motion absent any determination of the merits.” Complainant has not provided objectively verifiable proof, such as names of witnesses, recorded documents or transcripts, to support this speculative allegation. Because there is no evidence that misconduct occurred, this charge must also be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**