

DEC 19 2012

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 12-90080, 12-90081,
12-90082 and 12-90083

ORDER

KOZINSKI, Chief Judge:

A pro se litigant alleges that a district judge “fraudulently dismissed” all defendants and made other improper rulings in her civil case. She also asserts that the three circuit judges who dismissed her petition for a writ of mandamus “blocked review” of the district judge’s fraud. These charges relate directly to the merits of the judges’ rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the district judge conspired with defendants and engaged in ex parte communications with opposing counsel. Because complainant presents no evidence to support these allegations, they must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the district judge delayed ruling on certain motions for five months. Delay isn't cognizable as 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). Because complainant has presented no evidence of improper motive or habitual delay, this charge must be dismissed. See In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. 2009).

DISMISSED.