

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

FEB 12 2013

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 12-90113

ORDER**KOZINSKI**, Chief Judge:

A pro se litigant alleges a district judge delayed making rulings in his civil case. Delay is not misconduct unless there is “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 doesn’t provide evidence that either is the case, the charge is dismissed. See In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. 2009).

Complainant further alleges the district judge conspired with state, federal and private actors to oppress complainant. These allegations are implausible on their face, and “[c]omplainant hasn’t provided objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations.” In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Because there is no evidence that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant believes that the district judge's actions were due to a mental defect. Adverse rulings do not serve as proof of a mental disability. See In re Complaint of Judicial Misconduct, 583 F.3d at 598. These charges must therefore be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.