

MAR 15 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUITIN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 12-90127 and 12-90128

ORDER

KOZINSKI, Chief Judge:

A prisoner alleges that a district judge and magistrate judge made improper rulings in his habeas case and that the district judge should have recused. These charges relate directly to the merits of the judges' rulings and are therefore dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 623 F.3d 1101, 1102 (9th Cir. Jud. Council 2010); Judicial-Conduct Rule 11(c)(1)(B).

Complainant further alleges that the judges favored the defendants. Adverse rulings are not proof of bias, and complainant hasn't provided any objectively verifiable proof of bias. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). These charges must therefore be dismissed. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainant also alleges that the district judge unduly delayed his case. A delay claim is not cognizable "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 does not provide evidence of either, the charge is dismissed. See In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. 2009).

Complainant also alleges that one of the judges “unconstitutionally permitted a law clerk to exercise the judicial power of the United States and terminate Complainant’s motion for sanctions and motion for [judgment] on the pleadings.” Complainant presents no proof of this. He points to two items in the case docket, but they contain no evidence supporting the allegation. This claim must therefore be dismissed as unsupported. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant’s allegations against court staff, opposing counsel and defense counsel are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.