

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

MAY 18 2015

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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Nos. 13-90029, 13-90030,
13-90042 and 14-90116

ORDER

THOMAS, Chief Judge:

Complainant, a prisoner, alleges that three magistrate judges, a district judge and two circuit judges made erroneous rulings in two civil cases. These allegations 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 further alleges that some of the judges conspired with, or “aided and abetted” the defendants, and that all of the judges should be “prosecuted” for violating his civil rights. However, adverse rulings alone are not evidence of a conspiracy or any crime. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 962–63 (9th Cir. Jud. Council 2011). Because complainant provides no other evidence to support these allegations, they must be dismissed as unsupported. See Judicial-Conduct Rule 11(c)(1)(D); see also 28

U.S.C. § 352(b)(1)(A)(iii).

Complainant also alleges that the district judge improperly delayed ruling on motions in his civil case. But delay 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.” In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 3(h)(3)(B). Complainant has not provided any evidence that the alleged delay was habitual or improperly motivated. This charge must be dismissed because there is no evidence that misconduct occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant alleges that one of the magistrate judges should have recused himself from complainant’s case after complainant filed a judicial misconduct complaint against him. But a “judge is not disqualified by a litigant’s suit or threatened suit against him.” United States v. Studley, 783 F.2d 934, 939–40 (9th Cir. 1986); see also Comm. on Codes of Conduct, Advisory Opinion No. 103 (2014) (a civil misconduct complaint against a judge, without more, falls short of grounds for recusal). These charges must therefore be dismissed because there is no evidence that any misconduct occurred. See Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant’s allegations against court staff, including a clerk of court, are

dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.