

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

NOV 12 2014

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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Nos. 13-90091, 13-90113,
13-90184 and 13-90185

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that two circuit judges, a district judge and a magistrate judge made erroneous rulings against him in his civil cases and conspired to violate his constitutional and statutory rights.

The allegations that call into question the correctness of the judges' rulings, such as complainant's allegation that the circuit judges "failed to discover the lack of uniformity in the district court record," must be dismissed because they relate directly to the merits of those rulings. See Judicial-Conduct Rule 3(h)(3)(A); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); see also 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant's conspiracy allegation must be dismissed because adverse rulings aren't evidence of conspiracy, see In re Complaint of Judicial Misconduct, 631 F.3d 961, 962–63 (9th Cir. Jud. Council 2011), and complainant doesn't offer any other evidence of conspiracy. See Judicial-Conduct Rule 11(c)(1)(D); see also

28 U.S.C. § 352(b)(1)(A)(iii).

Complainant also alleges that the magistrate judge “delay[ed]” issuing a scheduling order. But “allegation[s] about delay in rendering a decision or ruling” aren’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); see In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009). Since complainant does not offer any evidence that the magistrate judge acted with an improper motive, or any evidence of a “habitual delay in a significant number of unrelated cases,” these allegations must be dismissed as unsupported. Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further alleges that the magistrate and district judges “issued no decision and order that petitioner received” on one of complainant’s motions, and that the district judge did not “answer[.]” another motion. These allegations must be dismissed because the judges resolved the motions. See Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 631 F.3d at 963; see also 28 U.S.C. § 352(b)(1)(A)(iii), (b)(2).

DISMISSED.