

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

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

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 13-90156, 13-90157,
13-90158, 13-90161, 13-90173
and 13-90176

ORDER

KOZINSKI, Chief Judge:

Complainants, six pro se prisoners, allege that a district judge improperly transferred complainants' habeas cases to the districts in which complainants were convicted and sentenced. These allegations call into question the correctness of the judge's decisions, and must be dismissed because they relate directly to the merits of those decisions. 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).

Complainants also allege that their habeas petitions weren't filed with the court for over six months after they were submitted, and that the clerk of the court did not respond to complainants' "letter[s] of inquiry." But filing is done by the clerk's office, not the judge. Thus, these are allegations against court staff and must be dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4; In re Complaint of Judicial

Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

Complainants further allege that the district judge made “[i]ntentional [m]isstatements” and “[a]lterations” to court records. However, complainants offer no evidence to support these allegations, and a review of the dockets doesn’t reveal any evidence of tampering. Thus, these allegations must also be dismissed as unfounded. See Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainants also allege that the judge committed, and conspired with others to commit, acts of treason, fraud and crimes against humanity. However, adverse rulings alone aren’t evidence of treason or conspiracy, see In re Complaint of Judicial Misconduct, 631 F.3d 961, 962–63 (9th Cir. Jud. Council 2011), and complainants provide no other evidence to support these very serious allegations, see In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Therefore, 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).

Two of the complainants allege that their habeas cases were “transferred to the Ninth Circuit Court of Appeals.” Those complainants filed habeas petitions in the court of appeals, which the court of appeals dismissed for lack of original jurisdiction. To the extent that complainants allege these rulings are misconduct, the allegations must be dismissed as merits-related. 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).

Complainants also object to Local Rule 6.1(d), which requires a written acknowledgment that this misconduct procedure “cannot change the outcome of the underlying case.” But that is the law, see 28 U.S.C. § 354, and any objection complainants have to this requirement must be directed to Congress.

DISMISSED.