

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

OCT 01 2014

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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No. 13-90215

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, claims that a district judge committed misconduct by failing to respond to his “Request for a Clear Statement, if its Order of [a certain date] was intended to be a final Appealable Order.” According to complainant, the judge’s failure to respond was an improper attempt to preclude appellate review of the judge’s ruling. But the judge had no obligation to answer complainant’s request, so his failure to do so is not misconduct. See Judicial-Conduct Rule 11(c)(1)(A).

Complainant also alleges that the district judge unduly delayed issuing a final judgment in his case. It’s true that delay may constitute judicial misconduct if it’s “improperly motivated” or “the product of improper animus or prejudice toward a particular litigant.” See In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. 2009) (quoting Commentary on Misconduct Rule 1). But complainant provides no objective evidence that the delay here resulted from

any improper motive, so this charge must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009); Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

DISMISSED.