

FILED

DEC 23 2014

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 14-90025 and 14-90026

ORDER

THOMAS, Chief Judge:

Complainants, pro se litigants, allege that a district judge erroneously dismissed their civil cases. These charges relate directly to the merits of the judge's rulings and must 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).

Complainants also allege that the judge failed to properly supervise personnel in the office of the clerk of court, whom complainants claim discarded many of their submissions in their entirety or in part. An individual judge does not have supervisory responsibility over the receipt of mail by the clerk of court's office. Here, the district judge dismissed one of the civil cases because one of the complainants, who was not a lawyer, continued to represent the other complainant in violation of the court's local rules and despite warnings not to do so. Complainant has provided no evidence that the allegedly missing documents

affected the outcome of either case. This charge is therefore dismissed for failure to allege “conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A).

Complainants further allege that the judge should have recused himself from their civil cases. Allegations that a judge erred in failing to recuse are merits-related and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. 2009). An allegation that a judge presided in a case knowing that he was subject to a conflict of interest may present a viable claim of judicial misconduct. However, a complainant must provide convincing proof that the judge was aware of the conflict or was acting with a corrupt motive. The evidence presented in this case is insufficient to make such a showing, and the allegations are dismissed for lack of objectively verifiable proof. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainants’ allegations against court staff are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.