

**FILED**

AUG 3 2016

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 16-90094

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, alleges that a magistrate judge made various improper rulings in his civil case. These allegations 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).

Complainant also alleges that the subject judge “usurped” a district judge’s power, and improperly presided over the underlying case without jurisdiction. The record shows (and complainant indicates in his complaint) that the parties in fact consented to magistrate jurisdiction under 28 U.S.C. § 636(c)(1). To the extent complainant alleges that the subject judge should have granted complainant’s motion to withdraw consent jurisdiction, such allegations relate directly to the merits of the judge’s ruling, and must be dismissed. See id.

Next, complainant alleges that the subject judge was “deliberately indifferent” to Ninth Circuit precedent. Although a “‘pattern and practice’ of ‘disregarding prevailing legal standards . . . may be misconduct[,]’ a complainant must at a minimum allege that the rulings in question have been reversed on appeal.” In re Complaint of Judicial Misconduct, 631 F.3d 961, 962 (9th Cir. Jud. Council 2011). “Moreover, a single reversal, or even a handful of reversals, doesn’t prove misconduct . . . . The number of erroneous rulings must be large enough that it could constitute a pattern.” Id. Complainant fails to make any such showing here, and accordingly this charge is dismissed for lack of evidence. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. 2009).

Finally, complainant alleges that the subject judge has improperly delayed the case. However, complainant offers no evidence that the alleged delay is based on improper motive, or that the district judge has habitually delayed ruling in a significant number of unrelated cases, and accordingly this charge must be dismissed. See Judicial-Conduct Rule 3(h)(3)(B); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009).

**DISMISSED.**