

OCT 20 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 16-90140

ORDER**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge improperly dismissed certain claims in his underlying civil case as insufficiently pled. 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 judge improperly delayed ruling in the underlying case. The record shows that the judge ruled on complainant's civil complaint less than four months after it was filed. Complainant fails to show either habitual delay, or that any alleged delay was improperly motivated, and accordingly this charge is dismissed as unfounded. See Judicial-Conduct Rule 3(h)(3)(B); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009).

Finally, complainant alleges that the judge harbors personal animosity and is “taking vengeance” against him. However, adverse rulings are not proof of bias or animosity, and complainant provides no objectively verifiable evidence to support these allegations, which must be dismissed. See 28 U.S.C.

§ 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Complainant has now filed two misconduct complaints against the same subject judge, raising similar unsupported and conjectural allegations.

Complainant is cautioned that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.