

**FILED**

JUL 13 2017

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 17-90050

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge improperly dismissed his habeas petitions as unexhausted, and failed to consider complainant's arguments that the state of California's appellate review process in capital cases is unconstitutional. Complainant raised similar allegations in a previous complaint, and the charges were dismissed as unfounded and merits-related. See In re Complaint of Judicial Misconduct Nos. 12-90130+ (9th Cir. Jud. Council 2014). Therefore, no further action is necessary. See 28 U.S.C. § 352(b)(2); Judicial-Conduct Rule 11(c)(1)(C); In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009).

In a previous order, complainant was 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." See In re Complaint of Judicial Misconduct, No. 09-90115+. Accordingly, complainant is

ordered to show cause why he should not be sanctioned by a restrictive filing order. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant has thirty-five days from the filing of this order to file a response, which will be transmitted to the Judicial Council for its consideration.

**DISMISSED and COMPLAINANT ORDERED TO SHOW CAUSE.**