

MAY 06 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 08-90117, 08-90118,
08-90119, 08-90120, 08-90121,
08-90122, 08-90123, 08-90124,
08-90125, 08-90126, 08-90127
and 08-90128**ORDER****SCHROEDER**, Circuit Judge¹:

Complainants, pro se litigants, filed a misconduct complaint and two supplements against six circuit judges and six district judges. One district judge was assigned to complainants' civil action. The other eleven judges did not participate in the consideration of complainants' lawsuit, but complainants seem to hold these subject judges responsible for decisions made by other district judges and circuit judges.

Complainants allege that the subject district judge assigned to complainants' civil action made various improper substantive and procedural rulings. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

¹ This complaint was assigned to Circuit Judge Mary M. Schroeder pursuant to 28 U.S.C. § 351(c).

A misconduct complaint is not a proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainants also allege that the subject district judge failed to provide adequate reasons for denying relief, but do not specify any particular decision. A review of the order dismissing the case demonstrates that the judge advised the parties of the reasons for the dismissal. Because this charge lacks factual foundation, it must be dismissed. See 28 U.S.C. § 352(b)(1)(B).

Complainants also allege that unspecified circuit judges unduly delayed and then improperly affirmed the district court's dismissal of their case. Delay is not cognizable "unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Judicial-Conduct Rule 3(h)(3)(B). Complainants provide no evidence of improper motive or habitual delay here. Further, complainants' other charge relates directly to the merits of the judges' rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

To the extent that complainants are alleging that the other eleven subject judges should have directed other judges to make different substantive or procedural rulings in their case, this charge must be dismissed because the charged

behavior does not amount to “conduct prejudicial to the effective and expeditious administration of the business of the courts.” See 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A).

Complainants’ request for injunctive relief is not cognizable under the misconduct complaint procedure and is therefore dismissed. See Judicial-Conduct Rule 3(h).

DISMISSED.