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

**JUDICIAL COUNCIL**

**OF THE NINTH CIRCUIT**

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| **IN RE COMPLAINT OF**<br><br>**JUDICIAL MISCONDUCT** | Nos. 08-89022, 08-89023, 08-89024, 08-89025, 08-89026, 08-89027, 08-89028, 08-89029, 08-89040, 08-89041, 08-89042, and 08-89049<br><br>**ORDER** |

**KOZINSKI**, Chief Judge:

Twelve complaints of misconduct raising identical allegations have been filed against five district judges. Complainants, pro se prisoners, filed petitions for writs of habeas corpus that were dismissed by the subject district judges.

Complainants allege that the judges improperly dismissed their petitions on procedural grounds without considering the merits of their claims. 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). This charge must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1).

Complainants also allege that the judges failed to comply with a 20-day time limit to issue a writ of habeas corpus or an order to show cause why the

petition should not be granted. However, the federal statute governing habeas corpus proceedings does not set a specific time period in which a judge must rule on a habeas petition. See 28 U.S.C. § 2243. Because this charge lacks factual foundation, it must be dismissed. See 28 U.S.C. § 352(b)(1)(B); Misconduct Rule 4(c)(3).

Complainants further allege that the judges conspired to deny their right to habeas relief and dismissed their petitions as part of a concerted effort to hide the fact that the courts in which they were convicted lacked jurisdiction. Complainants haven't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. Because there isn't sufficient evidence to raise an inference that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

Complainants are cautioned that further misconduct complaints raising these allegations may result in sanctions or an order directing the clerk not to file any further complaints. See Misconduct Rule 1(g).

**DISMISSED.**