

DEC 02 2008

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

JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT

No. 08-89031

**ORDER**

**KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se prisoner, filed a 42 U.S.C. § 1983 action in district court.

The subject judge was assigned to the matter.

Complainant alleges that the judge made improper substantive and procedural rulings. These claims 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); Misconduct Rule 4(c)(1). 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).

Complainant also alleges that the judge was biased against him and showed favoritism towards defendants. But complainant provides no objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) beyond the judge's rulings to support this allegation of bias. 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); Commentary on Misconduct Rule 4.

Complainant further alleges that the clerk of court failed to file several motions that he submitted. This charge must be dismissed because this complaint procedure applies only to federal judges. See Misconduct Rule 1(d). To the extent that complainant raises allegations against the state's assistant attorney general, these charges must likewise be dismissed. See id.

**DISMISSED.**