

APR 27 2009

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 08-90052 and 08-90053

**ORDER**

**KOZINSKI**, Chief Judge:

A misconduct complaint and a supplement to the complaint have been filed against a district judge and a magistrate judge. Complainant, a pro se prisoner, filed a civil rights action in district court. The subject judges were assigned to the matter.

Complainant alleges that the judges made various improper procedural rulings. These charges relate 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). 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 judges were biased against him and exhibited favoritism toward counsel for defendants. But complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) beyond the judges' rulings to support this

allegation. Because there is no evidence that misconduct occurred, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**