

JUL 31 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 08-90170

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se litigant, filed several civil cases in district court. The subject judge was assigned to the matters.

Complainant alleges that the judge improperly denied his motion for summary judgment in one of the cases. This charge relates directly to the merits of the judge's decision 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 judge was biased against him and used disrespectful language in an order in the same case as above by referring to complainant using only his surname. The order was reviewed and the referenced language does not amount to judicial misconduct. Use of a party's surname only in

an order is not proof of disrespect or bias. The court's substitution in an order of the word "brothel" for the complainant's less savory word choice is no evidence of bias either. Complainant hasn't provided any other objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support an allegation of bias. Because there is no evidence that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant raises allegations against opposing counsel, these charges are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.