

JUL 30 2009

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 08-90206

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se litigant, filed a civil case in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge 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). A misconduct complaint is not the 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 mentally incompetent and was biased against complainant due to complainant's pro se and indigent status. In addition, complainant suspects that the judge engaged in improper political activity. But complainant hasn't provided any objectively verifiable proof (for

example, names of witnesses, recorded documents or transcripts) to support these allegations. Because there is no evidence that misconduct occurred or that the judge is disabled, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's next request—that the judge be recused or the case be reassigned—is not the proper subject of a misconduct proceeding. See Judicial-Conduct Rule 3(h).

Finally, complainant's allegations against court staff are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.