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MAY 01 2008

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 07-89148

MEMORANDUM AND ORDER

KOZINSKI, Chief Judge:

A complaint of misconduct has been filed against a circuit judge of this circuit. Complainant, a pro se prisoner, was a defendant in a criminal case. The court of appeals decision affirming his conviction was written by the subject judge.

Complainant alleges that the opinion contains several factual misrepresentations concerning his trial. This charge is directly related to the merits of the judge's decision in the underlying case and therefore must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1) of the Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct or Disability (Misconduct Rules). A complaint of judicial misconduct is not a proper vehicle for challenging 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 he was discriminated against by the judge and that the judge “has mistakenly twisted the record to cover-up for the prosecutor’s serious misconduct,” but his complaint presents nothing more than a disagreement as to the court’s ruling against him. Many disappointed litigants feel very strongly that the judge who ruled against them must be guilty of some sort of chicanery, but such a suspicion, standing alone, is an insufficient basis for a misconduct complaint. Rather, complainant must present objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting any such allegation, which complainant has not done. These charges are therefore dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

DISMISSED.