

AUG 25 2008

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-89007

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a magistrate judge.

Complainant is a criminal defendant in a pending matter. The magistrate judge presided over complainant’s preliminary hearing.

Complainant alleges that the judge should have disqualified himself from presiding over the preliminary hearing because he issued all the warrants in the case. There is nothing inherently prejudicial about a judge handling multiple stages of a criminal matter. See Withrow v. Larkin, 421 U.S. 35, 56 (1975). This charge must be dismissed because the charged behavior doesn’t amount to “conduct prejudicial to the effective and expeditious administration of the business of the courts.” Misconduct Rule 4(c)(2)(A); see 28 U.S.C. § 351(a).

DISMISSED.