

FEB 04 2009

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

JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT

No. 08-90004

ORDER

**KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a district judge. Complainant was a criminal defendant in a matter assigned to the subject judge.

Complainant alleges that the judge improperly ordered the distribution of money deposited into an escrow account by his co-defendant. This charge relates 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 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 conspired with the prosecutors to cover up this mistake by dismissing certain charges and eliminating all court records regarding the money. Although complainant attached several exhibits, they do not provide any objectively verifiable proof to support these allegations.

Conclusory charges that are wholly unsupported, as here, carry no weight.

Because there is no evidence raising an inference 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).

Complainant's allegations against the prosecutors must be dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

**DISMISSED.**