

JAN 29 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90020

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se prisoner, filed a civil rights action in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge colluded with state officials to prevent him from appealing a decision. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support this allegation. Moreover, a review of the docket discloses that complainant filed two appeals in this case, both of which were dismissed by the court of appeals for lack of jurisdiction. The record thus refutes the notion that anyone interfered with complainant's access to the court of appeals. Because there is no evidence that any misconduct occurred, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's allegations against court staff must be dismissed because this

misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.