

FEB 13 2009

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 08-90043

**ORDER**

**KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a magistrate judge. Complainant, a pro se litigant, filed a civil rights action in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge had either diminished capacity or malicious intent to hinder the resolution of his case. But complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. Adverse rulings do not constitute proof of bias or mental incapacity. Because there is no evidence 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).

**DISMISSED.**