

JUN 03 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

Nos. 08-90144 and 08-90145

ORDER**KOZINSKI**, Chief Judge:

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

Complainant alleges that the judges made various improper substantive and procedural rulings. These charges relate directly to the merits of the judges' decisions 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 judges were biased against him due to his race and pro se status. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support this allegation. Adverse rulings do not constitute proof of bias. Because

there is no evidence that misconduct occurred, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent that complainant raises allegations against the defendants, the charges are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.