JUDICIAL COUNCIL

FOR THE NINTH CIRCUIT

FILED

JAN 10 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

In re Charge of

Judicial Misconduct

No. 07-89112
ORDER AND
MEMORANDUM

KOZINSKI, Chief Judge:

A complaint of misconduct has been filed against a magistrate judge of this circuit. Administrative consideration of such complaints is governed by the Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct or Disability (Misconduct Rules), issued pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980. 28 U.S.C. §§ 351–364.

Complainant, a pro se prisoner, alleges that, by entering a ruling in his case, the judge obstructed prosecution of an FBI investigation, conspired to cover up an assault against complainant, committed perjury and violated a December 1, 2005, order by a district judge in another case. Complainant also alleges that the judge is racially biased against him and refused to read the complaint and other documents in the record. The allegations that the judge obstructed an FBI investigation,

conspired to cover up an assault, committed perjury and violated an order by a district judge in another case all relate to the merits of the judge's findings and recommendations. A complaint will be dismissed if it is directly related to the merits of a judge's ruling or decision in the underlying case. 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1). The procedures for judicial misconduct are not a proper venue for challenging a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982). These charges, therefore, are dismissed.

Complainant failed to include any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting his allegations that the judge is racially biased and refused to read documents in the record. To the extent that the allegations of obstruction, conspiracy and perjury are not directly related to the merits of the judge's findings and recommendations, these allegations also lack objectively verifiable proof. Conclusory charges that are wholly unsupported, as here, will be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

COMPLAINT DISMISSED.