JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF	No. 09-90254
JUDICIAL MISCONDUCT	**ORDER**

KOZINSKI, Chief Judge:

Complainant alleges that the district judge assigned to his civil case should have recused himself. 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 3(h)(3)(A); In re Complaint of Judicial Misconduct, 570 F.3d 1144, 1144 (9th Cir. 2009) ("[A]lleg[ations] that the judge should have recused himself . . . relate[] directly to the merits of the judge's rulings and must be dismissed."). A failure to recuse may constitute misconduct only if the judge "deliberately failed to [recuse] for improper purposes," which was not alleged here. Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146 (2006) available at http://supremecourt.gov/publicinfo/breyercommitteereport.pdf.

Complainant also alleges that the judge improperly referred his recusal motion to another judge. But under the court's general orders, the judge was

required to refer the motion "to the Clerk for random assignment to another judge." Further, when complainant took issue with the referral, the judge also personally considered and denied the motion. This claim raises no "inference that misconduct has occurred or that a disability exists" and must be dismissed. Judicial-Conduct Rule 11(c)(1)(D).

Complainant's allegation that "the judge is [sic] does not follow court rules and his own orders" must be dismissed because complainant provides no objectively verifiable proof to support his claim. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainant's request to have his case reassigned to another judge is not cognizable under the misconduct complaint procedure. See Judicial-Conduct Rule 3(h).

DISMISSED.