

AUG 09 2012

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 12-90046

**ORDER**

**KOZINSKI**, Chief Judge:

Complainant, a pro se prisoner, claims that a district judge failed to send him a copy of the order denying his habeas petition. He also alleges that the judge failed to mail an order to a fellow inmate regarding the inmate's civil suit. Judges aren't responsible for mailing orders and don't have supervisory responsibility over the clerk's office personnel in charge of mailing. Regardless, the record shows that the court sent a copy of the order denying the habeas petition to complainant's prison address at the appropriate time and later sent another copy when complainant informed the court that he hadn't received the first one. It also shows that, after receiving a complaint from the fellow inmate, the judge investigated the issue and determined that the order had been delivered to his prison address and wasn't returned to the court as undeliverable. These allegations are dismissed as groundless. See 28 U.S.C. § 352(b)(1)(B).

Complainant also alleges that the district judge failed to rule on one of the claims in his habeas petition. This allegation relates to the merits of the judge's

ruling and therefore is not the proper subject of a misconduct complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial Conduct Rule 11(c)(1)(b). In any event, the docket shows that the district judge addressed and rejected the claim. The charge is therefore “conclusively refuted by objective evidence.” 28 U.S.C. § 352(b)(1)(B).

**DISMISSED.**