

FOR PUBLICATION

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 16-90121

ORDER

Filed October 3, 2016

ORDER

THOMAS, Chief Judge:

Complainant alleges that the district judge presiding over his criminal case has acted “without lawful authority” because the judge, upon being sworn in, gave a version of the judicial oath that preceded the standard language prescribed at 28 U.S.C. § 453, as amended by the Judicial Improvements Act of 1990. Both the district court and the Ninth Circuit Court of Appeals have previously rejected this or similar arguments raised by complainant.

To the extent complainant alleges that the judge improperly denied his motion to dismiss, based on a “deficient” oath, these allegations relate directly to the merits of the judge’s rulings and must be dismissed. *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).

Moreover, complainant cites no authority stating that minor variations in the phrasing of the judicial oath may be grounds for disqualifying a judge, or could constitute misconduct. Because complainant fails to allege any conduct “prejudicial to the effective and expeditious administration of the business of the courts,” these charges are dismissed. *See In re Complaint of Judicial Misconduct*, 726 F.3d 1060, 1062 (9th Cir. Jud. Council 2013); Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.