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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 07-89066
**ORDER AND
MEMORANDUM**

Before: **THOMPSON, THOMAS, GRABER** and **RAWLINSON**, Circuit Judges, **A. COLLINS, GONZALEZ, LASNIK**, and **WHALEY**, Chief District Judges, and **HATTER**, District Judge*

Pursuant to Chapter III of the Rules of the Judicial Council Governing Complaints of Judicial Misconduct or Disability under 28 U.S.C. § 352(c), complainant has filed a petition for review of the order of the former Chief Judge entered on September 27, 2007, dismissing the complaint against a district judge of this circuit.

We have carefully reviewed the record. We conclude that there is no basis for overturning the former Chief Judge's decision.

Upon limited inquiry, we find that complainant has failed adequately to support his allegations of bias, improper motive, and conspiracy. See Misconduct Rule 8(e)(3). Further, there was not sufficient evidence to raise an inference that misconduct occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3);

* Hon. M. Margaret McKeown did not participate in the consideration of this matter.

see also Advisory Opinion No. 11 by the Committee on Codes of Conduct of the Judicial Conference of the United States (“It cannot be that judges must recuse from all cases handled by a law firm simply because judges have firm members for friends.”)

Finally, a judge’s decision to hear a case rather than to recuse is merits-related and the Judicial Council, an administrative body, does not review the correctness of a judge’s decisions. See 28 U.S.C. § 352(b)(1)(A)(iii); see also *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice: Standard 2 for Assessing Compliance with the Act* at pp. 145-46 (2006). Indeed, complainant sought recourse by raising these same charges to the appellate court in his appeals of the underlying matters and again on petition for rehearing, and the appellate court did not grant the relief sought by complainant.

For these reasons, we affirm.