

AUG 22 2008

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 07-89130

ORDER

KOZINSKI, Chief Judge:

A complaint of misconduct has been filed against a district judge. Complainant, a pro se litigant, filed multiple civil rights complaints that were assigned to the subject judge. Complainant alleges that the judge reached incorrect legal conclusions, but this charge attacks the merits of the judge’s rulings, and a complaint of judicial misconduct is not the proper vehicle for such a challenge. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1).

Complainant also alleges that the judge improperly denied complainant’s motion for in forma pauperis status in one case. Complainant points to the fact that the judge granted complainant’s IFP motion in another case, and accuses the judge of being prejudiced in the former case because the other party was a “large government services contractor.” Complainant also claims that the judge conspired to violate complainant’s civil rights, tampered with evidence and

committed fraud and treason. But complainant hasn't provided objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting these allegations. The charges must therefore be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

Complainant further contends that the judge instructed court clerks to disregard documents that complainant attempted to file by fax. All the faxes he provided, however, have transmission dates after January 1, 2006, when a general order of the district court took effect that discontinued fax filing except under specified circumstances. See General Order Number 201 (2005), <http://www.id.uscourts.gov/docs/FaxFiling8.pdf>. Complainant does not argue that he met the requirements for fax filing, so these charges are dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

Complainant also argues that the judge should have recused himself after complainant submitted a petition to Congress alleging that the subject judge, among others, had violated his civil rights. Complainant sent the clerk of the court two related "notices" stating that the judges of the district could not adjudicate his case because the petition created a conflict of interest. However, complainant has failed to provide objective evidence that would lead one to reasonably question the impartiality of the subject judge. See Standing Comm. on Discipline of the U.S.

Dist. Court for the Cent. Dist. of Cal. v. Yagman, 55 F.3d 1430, 1443 (9th Cir.

1995) (“It has long been established . . . that a party cannot force a judge to recuse himself by engaging in personal attacks on the judge.”); 28 U.S.C. § 455; 28

U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

Finally, complainant alleges misconduct by court clerks. But this complaint procedure applies only to federal judges. Misconduct Rule 1(d). Complaints about other officials of federal courts should be made directly to their supervisors. Id.

DISMISSED.