

DEC 02 2008

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 08-89013

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se prisoner, filed a petition for a writ of habeas corpus in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge failed to liberally construe his petition and improperly dismissed it as time-barred. This charge relates directly to the merits of the judge's ruling, and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1). A misconduct complaint is not a proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judge conspired with state officials to preserve an invalid conviction. Complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support this allegation. Because there isn't sufficient evidence to

raise an inference that misconduct occurred, this charge must be dismissed. See 28

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

DISMISSED.