

JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT

**FILED**

NOV 28 2008

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

IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT

Nos. 08-89015 and 08-89019

**ORDER**

**KOZINSKI**, Chief Judge:

Two related complaints of misconduct have been filed against three district judges and four magistrate judges. Complainant, a pro se litigant, filed numerous civil cases to which the subject judges were assigned.

Complainant alleges that the judges were biased against him and conspired to deprive him of due process. He also alleges that several of the judges were improperly influenced by “extrajudicial sources.” He further alleges that one judge attempted to harass and intimidate him, and that another engaged in improper ex parte communications. But complainant hasn’t included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting these allegations. Because there isn’t sufficient evidence to raise an inference that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

Complainant alleges that the magistrate judges exceeded their authority and that he was deprived of his right to be heard by district judges. Many pretrial matters may be referred to a magistrate judge pursuant to 28 U.S.C. § 636(b). To the extent that complainant objects to the referral of his cases to the magistrate judges, this charge must be dismissed because the charged behavior does not amount to “conduct prejudicial to the effective and expeditious administration of the business of the courts.” See 28 U.S.C. § 351(a); Misconduct Rule 4(c)(2)(A). The allegation that the magistrate judges exceeded their authority lacks factual foundation, and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(B).

**DISMISSED.**