

DEC 12 2008

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-89018

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se litigant, was a plaintiff in a civil case to which the subject judge was assigned.

Complainant alleges that the judge violated the law by making improper rulings. This charge relates directly to the merits of the judge's rulings 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 failed to provide adequate reasons for his decision to dismiss the case. A review of the hearing transcript demonstrates that the judge advised the parties of the reasons for the dismissal. Because this charge lacks factual foundation, it must be dismissed. See 28 U.S.C.

§ 352(b)(1)(B).

Complainant further alleges that the judge was biased because the judge would not permit complainant to speak in court. A review of the hearing transcript discloses that the judge allowed complainant to speak until he determined that complainant's own case had to be dismissed for lack of standing. At that point, the judge informed complainant that he could not represent the other plaintiffs because he's not a licensed attorney. 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).

DISMISSED.