

JAN 28 2009

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 08-90007

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se prisoner, filed a civil rights action in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge improperly denied his applications to proceed in forma pauperis and instructed the court clerk not to file any further motions for in forma pauperis status. Complainant also alleges that the judge made various other incorrect rulings. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). 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 alleges that the judge was biased and harbored malice towards him. But complainant hasn't provided any objectively verifiable proof (for

example, names of witnesses, recorded documents or transcripts) beyond the judge's rulings to support this allegation. Because there is no evidence to raise an inference that misconduct occurred, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent that complainant raises allegations against state court staff, the grand jury or prison officials, these charges must be dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.