

FEB 04 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 08-90025

**ORDER****KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a magistrate judge.

Complainant, a pro se prisoner, filed a habeas petition in district court. The matter was referred to the subject judge.

Complainant, who protests his innocence, alleges that the judge was biased against 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 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); Judicial-Conduct Rule 11(c)(1)(D).

To the extent that complainant raises allegations against opposing counsel and court staff, these charges must be dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

**DISMISSED.**