

MAR 12 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90041

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

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

Complainant alleges that the judge improperly allowed the case to be removed from state court and dismissed it pursuant to the Prison Litigation Reform Act. 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); 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 conspired with state officials and was biased against him. But complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) beyond the judge's decision to dismiss the case to support these allegations. Because there

is no evidence that misconduct occurred, these charges must be dismissed. See 28

U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.