

APR 03 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

Nos. 08-90082, 08-90103

ORDER**KOZINSKI**, Chief Judge:

Two misconduct complaints have been filed against a district judge and a magistrate judge. Complainant, a pro se prisoner, has two civil rights actions pending in district court. The subject judges were assigned to those matters.

Complainant alleges that the judges made various improper substantive and procedural rulings. These charges relate directly to the merits of the judges' 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 also alleges that the judges were biased against him. But complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. Adverse rulings do not constitute proof of bias. 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).

To the extent that complainant raises allegations against defense 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.