

APR 27 2009

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 08-90086

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge.

Complainant, a pro se litigant, filed a civil case in district court. The subject judge was assigned to that matter.

Although complainant filled out and filed a judicial misconduct complaint form, he concludes the complaint by stating that “it is not [his] desire . . . to have disciplinary action taken against” the subject judge. He appears to want some other form of relief, possibly reconsideration of his case by another judge. But a misconduct complaint is not the proper vehicle for correcting judicial mistakes; any legal errors made by the subject judge during the course of complainant’s case should have been challenged through the appeal process. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

In any event, complainant doesn’t state a colorable claim of judicial misconduct. He alleges that the judge was biased against him because of the

judge's political views, but he hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support this allegation. Adverse rulings do not constitute proof of bias. Because there is no evidence 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).

Complainant also alleges that the judge improperly dismissed his case and that the judge should have recused himself. Both of these claims 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).

DISMISSED.