

MAY 04 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90112

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a circuit judge. Complainant, a pro se litigant, appealed the district court’s dismissal of his civil case. The subject judge did not participate in the consideration of complainant’s appeal.

The complaint is lengthy, with some portions in duplicate and triplicate, and it is unclear what complainant is actually complaining about. As best one can tell, complainant’s primary allegation appears to be that the subject judge failed to adequately direct or supervise the judges assigned to his case. But the judge had no duty to oversee the rulings of other judges. This charge must be dismissed because the charged behavior does not amount to “conduct prejudicial to the effective and expeditious administration of the business of the courts.” See 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A).

Complainant also alleges that various improper substantive and procedural rulings were made in his case. It is not clear that any of these rulings were by the

subject judge. In any event, these charges relate directly to the merits of the decisions 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 appears to allege that the subject judge discriminated against him and participated in a conspiracy. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) 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).

Complainant's allegations against court staff are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.