

APR 09 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 08-90114 and 08-90115

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against two circuit judges. Complainant, a pro se prisoner, appealed the dismissal of his civil rights action. The subject judges denied complainant's request to proceed in forma pauperis on appeal.

Complainant alleges that the judges' order denying in forma pauperis status was improper. This charge relates directly to the merits of the judges' ruling 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 discriminated against him on account of his race. But complainant 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 or discrimination. 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).

DISMISSED.