

JUN 11 2009

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 08-90147, 08-90148,
08-90181 and 08-90182

ORDER

KOZINSKI, Chief Judge:

Two misconduct complaints and a supplement have been filed against four circuit judges. Complainant, a pro se litigant, appealed the dismissal of three civil actions. The subject judges denied some of complainant's motions in those appeals.

Complainant alleges that the judges' orders denying appointment of pro bono counsel, declining to address his motion filed by facsimile without prior authorization, denying disqualification of counsel, and waiving the excerpts of record requirement were improper. 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 personally biased against him,

discriminated against him because he is poor, and conspired with government attorneys. But complainant hasn't provided 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 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).

Complainant's request that his three appeals be stayed pending review of his misconduct complaints is not cognizable under the misconduct complaint procedure and is therefore dismissed. See Judicial-Conduct Rule 3(h).

Complainant's allegations against court staff, his former counsel, and government attorneys must be dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant has now filed three misconduct complaints in the past two years, all raising similar conclusory and/or merits-related allegations. Any future complaints presenting fundamentally the same allegations will be dismissed summarily as frivolous. Complainant is further cautioned that a "complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints."

Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d

1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.