

JUL 09 2009

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 08-90198

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a magistrate judge. Complainant, a pro se litigant, filed a civil case in district court. The matter was referred to the subject judge.

Complainant alleges that the judge improperly denied his requests to proceed in forma pauperis and for the appointment of counsel. These charges 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). 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 judge was biased against him and inconsiderate to the indigent. 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. These charges must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's request that the judge be recused must be made in that case and is not the proper subject of a misconduct proceeding. See Judicial-Conduct Rule 3(h).

DISMISSED.