

FILED

OCT 26 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90201

ORDER

KOZINSKI, Chief Judge:

This complainant filed a misconduct complaint alleging that the district judge assigned to his civil case was biased against him. I dismissed the prior charge because it lacked objectively verifiable proof of bias. See In re Complaint of Judicial Misconduct, Nos. 08-90082+ (9th Cir. Jud. Council 2009). The current complaint repeats this allegation, and complainant again fails to provide any supporting evidence. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); see also In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009).

Complainant also alleges that the judge made various improper substantive and procedural rulings. 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 a judge's decisions on the merits. See In re Charge of

Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Further misconduct complaints presenting fundamentally the same allegations may be dismissed summarily as frivolous. Moreover, complainant is 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); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.