

AUG 03 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 08-90204

ORDER**KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a district judge. Complainant was a defendant in a criminal case over which the subject judge presided.

Complainant previously filed a misconduct complaint against the subject judge alleging that he failed to certify his credentials as a judge. The former chief judge dismissed the charge because it did not constitute behavior prejudicial to the effective administration of the business of the courts. See In re Charge of Judicial Misconduct, No. 07-89029 (9th Cir. Jud. Council 2007). The current complaint merely repeats this charge raised in the prior complaint and is equally meritless. See Judicial-Conduct Rule 11(c)(1)(C); 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 the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

To the extent that complainant appears to request the judge's credentials and answers to complainant's list of questions, these requests are not cognizable under the misconduct complaint procedure and are therefore dismissed. See Judicial-Conduct Rule 3(h). Complainant's demands concerning certain bonds are similarly non-cognizable as complainant has failed to allege any action by a judicial officer that qualifies as misconduct. See id. These requests are dismissed as well.

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.