

FEB 23 2010

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 09-90042 and 09-90043

**ORDER**

**KOZINSKI**, Chief Judge:

Complainant has filed a misconduct complaint and two supplements against the district and magistrate judges assigned to his habeas petition. Complainant first alleges that they made various improper substantive and procedural rulings. 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); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judges were biased against him. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support this allegation. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Adverse rulings alone do not constitute proof of bias. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). 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).

To the extent complainant charges misconduct by his trial counsel and the prosecution for the underlying conviction, these charges are dismissed because this misconduct procedure applies only to federal judges. See Judicial-Conduct Rule 4; In re Charge of Judicial Misconduct, 569 F.3d at 1093.

**DISMISSED.**