

JUN 28 2010

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

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| IN RE COMPLAINT OF JUDICIAL MISCONDUCT |
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Nos. 09-90057 and 09-90058

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that a district judge and a magistrate judge made various improper substantive and procedural rulings in his civil case. 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 next alleges that the judges favored the defendants and were biased against him on account of his prisoner status and possibly other factors, such as his race. Complainant also alleges that the judges engaged in improper ex parte communications with the defendants. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Because there is

no evidence that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent that complainant makes allegations against court staff and the defendants in his civil case, these charges must be dismissed; this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.