

JUL 08 2010

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

IN RE COMPLAINT OF  JUDICIAL MISCONDUCT
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No. 09-90119

**ORDER****KOZINSKI**, Chief Judge:

Complainant alleges that the district judge assigned to his criminal case made various improper substantive and procedural rulings. These charges relate directly to the merits of the case 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 the 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 on account of his ethnicity, showed hostility towards him, had improper discussions with parties and counsel, and obtained special treatment for friends. Nothing in the hearing transcript or Ninth Circuit case provided by complainant supports these charges. Nor has complainant provided any other objectively verifiable proof to support his various allegations. Adverse rulings do not constitute proof of bias or hostility. 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).

Complainant further alleges that the judge has improperly been assigned to all of his cases. But the dockets reveal that the judge has not presided over all of complainant's cases. Further, it is common for a district court to manage judicial resources by assigning one judge to related cases. Such assignment of related cases by itself does not constitute misconduct. Cf. Liteky v. United States, 510 U.S. 540, 555 (1994). Complainant hasn't provided any evidence that the judge improperly sought assignment of any of his cases. This charge must be dismissed as lacking in factual foundation. See 28 U.S.C. § 352(b)(1)(A)(iii), (b)(1)(B); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**