

JAN 05 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 09-90135

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that a district judge assigned to his habeas petition “knowingly disregarded U.S. Supreme Court precedents, repeatedly!” But complainant hasn’t provided any objectively verifiable proof that the judge habitually or willfully disregarded the law, so this claim must be dismissed. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainant’s related claim that the judge made “errors” and “mistakes” must be dismissed because it is merits related. 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) (explaining that a misconduct complaint is not the proper vehicle for challenging the merits of a judge’s rulings).

Complainant also alleges that the judge “engaged in fraud, coverups, and overt act’s [sic] in a conspiracy to keep complainant unlawfully imprisoned.”

Complainant tries to support these charges by pointing to his motion to set aside the judgment and his notice of appeal, as well as two of the judge’s orders. But

nothing in those documents suggests that the judge engaged in fraud or conspired against him. Because complainant hasn't provided any proof 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); In re Complaint of Judicial Misconduct, 569 F.3d at 1093.

DISMISSED.