

MAY 11 2010

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 09-90141

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge improperly failed to affix his signature to the civil minutes in which he denied complainant’s motion to disqualify judges in his habeas case. Judges don’t normally affix their signature to civil minutes. Further, an “allegation that calls into question the correctness of an official action of a judge . . . is merits related.” See Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 145 (2006).

This charge relates directly to the merits of the judge’s ruling and is 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’s allegations against court staff are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant’s request that his case be reassigned is not cognizable in the

misconduct complaint procedure. See Judicial-Conduct Rule 3(h).

Complainant filed a previous misconduct complaint against the judges in his habeas case, which was dismissed. Shortly after that complaint was dismissed, complainant filed this complaint against the judge who refused to disqualify the habeas judges, and he filed another motion to disqualify the habeas judges.

Further misconduct complaints presenting fundamentally the same allegations will be dismissed summarily as frivolous. 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.