

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

APR 06 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSIN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 09-90179 and 09-90180

ORDER

KOZINSKI, Chief Judge:

A pro se litigant alleges that a district judge and a magistrate judge improperly dismissed his civil case. This charge must be dismissed as 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).

Complainant further alleges that “both judges conspired to deprive [him] of due process.” But adverse rulings aren’t proof of conspiracy, and complainant offers no other evidence to support this claim, so this charge must also be dismissed. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. 2011).

Even were misconduct shown, complainant would not be able to obtain the relief sought—namely, punitive damages against the judges and an order allowing his case to proceed—through the misconduct complaint procedure. See In re Complaint of Judicial Misconduct, 630 F.3d 1262, 1262 (9th Cir. 2011)

(“Complainant may not obtain any kind of personal relief . . ., even if misconduct is ultimately shown.”).

DISMISSED.