

JUN 03 2010

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

Nos. 09-90210 and 09-90280

ORDER**KOZINSKI**, Chief Judge:

Complainant, a pro se litigant, alleges that the district judge and magistrate judge assigned to his civil case made improper substantive and procedural rulings.

The charges against the district judge, who is deceased, are dismissed as moot. See In re Charge of Judicial Misconduct, 91 F.3d 90, 91 (9th Cir. Jud. Council 1996).

Complainant's charges against the magistrate judge relate directly to the merits of the judge's rulings and must likewise be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). The appellate process, not a misconduct complaint, is the proper vehicle to challenge 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 magistrate judge favored the defendants. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support this allegation.

See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Adverse rulings are not proof of favoritism. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Because there is no evidence of misconduct, this charge must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.