

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

JAN 25 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 09-90256

ORDER**KOZINSKI**, Chief Judge:

A pro se litigant alleges that two magistrate judges made various improper substantive and procedural rulings in his civil rights cases. These charges are dismissed because they relate directly to the merits of the judges' rulings. 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 also alleges that the judges favored the defendants, and that, as a result of this bias, one judge "conspir[ed] with the state" while the other judge "fabricated state records" to justify ruling against him. But adverse rulings do not constitute proof of bias or conspiracy, and complainant hasn't provided any other proof to support these allegations. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Because there's 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 attaches over two inches of exhibits to his complaint, most of which appear to be filings from his underlying cases. It's unclear what relevance,

if any, the stack of documents has to complainant's allegations of misconduct.

Because the complaint's statement of facts does not reference these exhibits with specificity, they will not be considered. See In re Complaint of Judicial Misconduct, No. 09-90239, 2010 WL 5300813, at *2 (9th Cir. Dec. 28, 2010).

Complainant is reminded that his various requests regarding his cases, including those for a new judge and for another opportunity to amend his pleadings, are not available under the misconduct complaint procedure, even if misconduct had occurred. See 28 U.S.C. § 354(a)(2); In re Complaint of Judicial Misconduct, Nos. 09-90276+, 2011 WL 102536, at *1 (9th Cir. Jan. 12, 2011).

Complainant previously filed a misconduct complaint against one of the judges that I dismissed as merits-related and unfounded. See In re Complaint of Judicial Misconduct, No. 08-90251 (9th Cir. Jud. Council 2010). 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 In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant is advised that any further misconduct complaints he files that present essentially the same allegations will be summarily dismissed as frivolous.

DISMISSED.