

OCT 13 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 09-90017

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that the magistrate judge assigned to her civil case improperly denied her request for the appointment of counsel. This charge relates directly to the merits of the judge's ruling and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not the proper vehicle for challenging 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 judge was biased against complainant, favored defendant and was hostile. The judge held no hearings, and does not display any hostility or prejudice in the written orders issued in the case. And complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud.

Council 2009). Because there is 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 further alleges that she did not receive a copy of a court order. A review of the docket indicates that the order was distributed pursuant to the Notice of Electronic Filing. Complainant claims that she had no access to electronic filings, but the judge had no duty to ensure that complainant received the court order. This charge must be dismissed because the charged behavior does not amount to “conduct prejudicial to the effective and expeditious administration of the business of the courts.” See 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.