

JAN 22 2010

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

No. 09-90083

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that the district judge assigned to his civil case made various improper substantive and procedural rulings. These charges relate directly to the merits of the judge's rulings 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 conspired ex parte with defense counsel and showed hostility towards complainant. Complainant tries to support these charges by pointing to language in one of the judge's orders. But nothing in the order suggests that the judge harbored hostility, was involved in a conspiracy or engaged in any ex parte conversations. Complainant hasn't provided any other objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations and adverse rulings do not constitute

proof of bias or conspiracy. 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); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

Complainant's allegations against defense counsel are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4; In re Charge of Judicial Misconduct, 569 F.3d at 1093.

Complainant's requests for relief that relate to the merits of his civil case are not cognizable under the misconduct complaint procedure. See Judicial-Conduct Rule 3(h).

DISMISSED.