

OCT 09 2009

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 09-90101

ORDER**KOZINSKI**, Chief Judge:

A misconduct complaint has been filed against a circuit judge. Complainant, a member of the public, alleges that the judge committed misconduct before joining the federal bench. Because complainant's allegations concern the judge's actions prior to becoming a federal judge, they are not cognizable under the laws governing judicial misconduct proceedings and must therefore be dismissed. See 28 U.S.C. § 351(a), (d)(1); Judicial-Conduct Rules 4, 11(c)(1)(G); In re Complaint of Judicial Misconduct, 570 F.3d 1144, 1144 (9th Cir. Jud. Council 2009).

Complainant also alleges that the judge is currently engaged in an "active conspiracy" to commit misconduct. Complainant has not provided any objectively verifiable proof (for instance, names of witnesses, recorded documents or transcripts) to substantiate those allegations, and they must therefore also 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, 552 F.3d 1146, 1147–48 (9th Cir. Jud.

Council 2009).

DISMISSED.