

JAN 25 2011

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

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| IN RE COMPLAINT OF JUDICIAL MISCONDUCT |
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No. 10-90074

ORDER**KOZINSKI**, Chief Judge:

A pro se prisoner alleges that a magistrate judge improperly denied his motion for appointment of counsel and “prejudicially timebarred” his habeas petition, thereby “violating the Appearance of Fairness Doctrine” and various constitutional rights. These charges relate directly to the merits of the judge’s rulings and must be dismissed. 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’s allegations against his attorney, the prosecutor and a state judge in his underlying criminal case are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4; In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. 2009).

DISMISSED.