

MAR 10 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 10-90075, 11-90011,
11-90012, 11-90013, 11-90014
and 11-90015**ORDER****KOZINSKI**, Chief Judge:

Complainant alleges that a district judge ruled against him without reading his brief, but he provides no evidence that this occurred. Complainant points to a hearing transcript, but nothing there remotely suggests that the judge failed to read or consider complainant's materials. To the contrary, the judge appeared conversant with complainant's argument. This charge must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that "if [the judge] had read the case, then he knew crimes were committed against the court by an officer of the court, and looked the other way." But the judge rejected the argument that the government committed fraud, and his decision was affirmed on appeal. Complainant may not challenge the merits of the judge's decision through the misconduct complaint procedure. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Complainant suggests that the judge has dementia, no longer wants to work

and decided to retaliate against him for filing a previous misconduct complaint, but the judge's adverse rulings don't prove any of this. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). These charges must be dismissed because there's no evidence that the judge is disabled or committed any misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant makes additional allegations of misconduct in two supplemental filings. He claims that a circuit judge secretly put the names of two other judges on an incorrectly decided order they had not reviewed. This charge is also dismissed as unsupported by any evidence. And any allegations against counsel or court staff must be dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant previously filed a misconduct complaint making similar allegations against the district judge, and another misconduct complaint against two circuit judges who ruled against him. These complaints were dismissed as merits-related and unfounded. See In re Charge of Judicial Misconduct, No. 07-89107 (9th Cir. Jud. Council 2007); In re Charge of Judicial Misconduct, No. 07-89075 (9th Cir. Jud. Council 2007). Complainant's current complaint and supplements repeat some of the underlying allegations, and those charges are summarily dismissed as frivolous. 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 also be summarily dismissed.

DISMISSED.