

FEB 11 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 10-90104

ORDER

SCHROEDER, Circuit Judge¹:

Complainant, a pro se prisoner, alleges that a circuit judge failed to supervise adequately a district judge assigned to complainant's case. But the judge had no duty to oversee the rulings of other judges. 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).

To the extent complainant alleges that the subject judge wrongly dismissed complainant's previous misconduct complaint against this district judge and other judges, this claim is dismissed as merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 3(h)(3)(A); Commentary on Judicial-Conduct Rule 3 (Challenges to the correctness of an order by the chief judge, or a judge acting in that capacity, dismissing a misconduct complaint are merits-related).

¹ This complaint was assigned to Circuit Judge Mary M. Schroeder pursuant to 28 U.S.C. § 351(c).

Complainant's request to file a notice of appeal is not a form of relief available through this complaint procedure, even if misconduct had occurred. See 28 U.S.C. § 354(a)(2).

This is complainant's third misconduct complaint filed in the last two years. Complainant is cautioned that if he files "repetitive, harassing, or frivolous complaints," or otherwise "abuse[s] the complaint procedure," he "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).

DISMISSED.