

NOV 29 2010

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 10-90145

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that a magistrate judge engaged in improper conduct before he was appointed to the bench. Allegations concerning the judge's actions prior to becoming a federal judge are not cognizable under the misconduct complaint procedure and must be dismissed. In re Complaint of Judicial Misconduct, 570 F.3d 1144, 1144 (9th Cir. 2009); see Judicial-Conduct Rule 4.

Complainant also disagrees with the accuracy of two unsworn statements he alleges the judge made, after his appointment, when asked as a witness about complainant's service in the military. From the documents complainant provided, the judge appears simply to have remembered events differently than he did. Because complainant hasn't provided evidence that the judge engaged in cognizable misconduct, these charges must also be dismissed. See Judicial-Conduct Rule 3(h)(2).

DISMISSED.