

MAY 13 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

Nos. 11-90001 and 11-90002

ORDER**KOZINSKI**, Chief Judge:

A pro se litigant alleges that two magistrate judges conspired to obstruct justice by refusing to issue subpoenas. He provides no evidence of conspiracy other than his supposition that “the odds against these two experienced, knowledgeable competent magistrates independently getting this basic, simple rule wrong in the same unique way within a day against the same party to benefit the same witness are astronomical.” (Emphasis added.) But the odds are significantly smaller if both judges reached the right result. We’ve repeatedly held that adverse rulings aren’t proof of conspiracy. E.g., In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. 2011). Because complainant offers no other evidence to support his claim, the charges must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

The charges against the prosecutor are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.