

JUN 16 2011

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALSJUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 11-90003

**ORDER****KOZINSKI**, Chief Judge:

Complainants, a mother and son, allege that a district judge showed racial bias by referring to the son's race when questioning prospective jurors for his criminal trial. The judge did refer to defendant as a "Negro" in emphasizing the importance of a fair and impartial trial. He clearly didn't use the anachronistic term as a racial epithet. Complainants haven't provided any other proof to support their bias allegation. This charge must be dismissed because there is no evidence of misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainants' allegations against the defense attorney are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4. Complainants' claim that "no juror[s] were people of color" is not cognizable in a judicial misconduct complaint proceeding.

Complainants' requests for a new hearing and new trial are not forms of relief available under the misconduct complaint procedure. See 28 U.S.C. § 354(a)(2); Judicial-Conduct Rule 11(a).

**DISMISSED.**