

JUN 08 2012

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 11-90032

ORDER**KOZINSKI**, Chief Judge:

An attorney alleges that a district judge improperly disallowed filing of a complaint based on a pre-filing order. This charge relates directly to the merits of the judge's ruling and therefore is not cognizable in a misconduct proceeding. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judge made criminally false statements in his order rejecting the new complaint. But complainant presents no evidence that the judge made false statements, except to point to an unrelated incident that has been investigated and resolved. This charge must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

Complainant's charges are frivolous, suggesting that they were filed in bad faith, in an effort to harass the district judge. And this complaint is only the most

recent in a series of unfounded complaints. He has also filed numerous unsuccessful lawsuits contesting the validity of the California State Bar exam, enough to warrant a pre-filing review order in the district. And he has filed other unsuccessful lawsuits challenging federal district court membership rules. This is strong evidence that complainant is using the legal process for harassment rather than in the legitimate effort to vindicate rights. Complainant is an attorney and should know better. Any further charges of misconduct based on the same or related facts may result in the imposition of sanctions. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 590 F.3d 766, 766 (9th Cir. Jud. Council 2009).

DISMISSED.