

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

NOV 13 2014

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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No. 13-90171

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge knowingly withheld exculpatory evidence from his defense counsel and allowed perjured testimony during his criminal trial. Complainant claims that the judge recused himself from complainant's case in order to conceal his own wrongdoing. But complainant fails to provide any evidence of misconduct, and thus these charges are dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). Any disagreement complainant has with the judge's rulings is merits-related and not cognizable in misconduct proceedings. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the judge "ha[d] his staff make false statements [to complainant] that the reason he recused himself was he was retiring early in 2002." But complainant has presented no evidence that the judge ordered his staff to make misleading statements. This charge is therefore dismissed as

unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant alleges misconduct by court staff, this allegation is dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant has previously filed related charges against another district judge that were dismissed as merits-related. See In re Complaint of Judicial Misconduct, No. 03-89040 (9th Cir. Jud. Council July 14, 2003). 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).

DISMISSED.