

FILED

AUG 26 2008

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

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

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-89016

ORDER

KOZINSKI, Chief Judge:

A complaint of misconduct has been filed against three circuit judges. Complainant, a pro se litigant, appealed the district court's dismissal of his complaint for lack of subject matter jurisdiction. The circuit judges affirmed.

Complainant alleges that the judges committed a "gross legal error" and incorrectly affirmed the district court. Because this charge relates directly to the merits of the judges' ruling, it must be dismissed. See Misconduct Rule 4(c)(1); 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).

Complainant also alleges that the judges' ruling was motivated by favoritism towards fellow judicial officers. Complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting his allegation of bias. Because there isn't sufficient evidence to raise an inference that misconduct occurred, this charge must be

dismissed. Misconduct Rule 4(c)(3); see 28 U.S.C. § 352(b)(1)(A)(iii).

DISMISSED.