

FILED

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

SEP 3 2026
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 25-90281, 25-90282

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed complaints of judicial misconduct against a district judge and a magistrate judge. Review of these complaints is governed by the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“Judicial-Conduct Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 *et seq.*, and relevant prior decisions of the Ninth Circuit Judicial Council. In accordance with these authorities, the names of complainant and the subject judges shall not be disclosed in this order. *See* Judicial-Conduct Rule 11(g)(2).

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is

frivolous or lacks sufficient evidence to raise an inference of misconduct. *See* 28 U.S.C. § 352(b)(1)(A)(i)-(iii). Judicial misconduct proceedings are not a substitute for the normal appellate review process and may not be used to seek reversal of a judge's decision, to obtain a new trial, or to request reassignment to a different judge.

As background, complainant filed employment related claims against a former employer regarding complainant's termination. First, complainant challenges the reassignment of complainant's case to the district judge, after it was originally assigned to a different district judge. However, there is "no right to any particular procedure for the selection of the judge," so long as the judge is chosen "in a manner free from bias or the desire to influence the outcome of the proceedings." *Cruz v. Abbate*, 812 F.2d 571, 574 (9th Cir. 1987). Complainant has submitted no objective evidence indicating there was anything improper about the reassignment which appears to be authorized by the court's local rules.

Similarly, complainant challenges the referral of complainant's case to the magistrate judge, noting that complainant did not consent to the magistrate judge's jurisdiction. Complainant has submitted no objective evidence indicating there was anything improper about the referral. Importantly, pursuant to 28 U.S.C. § 636(b)(1), the referral to the magistrate judge for pretrial matters was statutorily authorized and did not require complainant's consent. Therefore, these allegations

are dismissed because the conduct, “even if true, is not prejudicial to the effective and expeditious administration of the business of the courts.” Judicial-Conduct Rule 11(c)(1)(A).

Next, complainant filed a motion seeking to recuse the district judge, which the district judge construed as a motion to disqualify. The district judge denied the motion, and complainant claims the denial was improper. “Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related. The phrase ‘decision or procedural ruling’ is not limited to rulings issued in deciding Article III cases or controversies.” Commentary on Judicial-Conduct Rule 4. Accordingly, this allegation is dismissed as a challenge to the merits of the district judge’s decision. *See* 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including claims directly related to the merits of a decision); *In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing as merits-related allegations that a district judge and magistrate judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Additionally, complainant alleges that the district judge made various improper rulings in complainant’s civil case which led to the “dismissal of [complainant’s] cause with prejudice.” These allegations also relate directly to the

merits of the judge's rulings and are dismissed. *See* 28 U.S.C. § 352(b)(1)(A)(ii); *In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also accuses the magistrate judge of improperly striking documents from the court docket, and failing to acknowledge filings, while allowing similar filings from defendants. Complainant alleges these actions were all due to bias in favor of defendants. However, complainant has not submitted any objectively verifiable evidence, and adverse rulings alone do not constitute proof of bias. *In re Complaint of Judicial Misconduct*, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009).

Moreover, complainant alleges that the magistrate judge improperly delayed ruling on complainant's motions by making complainant "refile documents." Without a showing of an "improper motive in delaying a particular decision or a habitual delay in a significant number of unrelated cases," delay alone is not cognizable misconduct. *See* Judicial-Conduct Rule 4(b)(2). Complainant has failed to provide any evidence of an improper motive or habitual delay, and as discussed above, complainant failed to provide any objective evidence of bias. Furthermore, a review of the record indicates the magistrate judge ruled on these motions within a month after they were filed. This does not constitute improper delay. *See* Judicial-Conduct Rule 4(b)(2). Therefore, this allegation is dismissed

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

Further, complainant alleges that the magistrate judge used “condescending” language in the orders issued to complainant. A review of the docket reveals that the orders at issue were not rude, derogatory, or intemperate, and the judge did not use demeaning language or heap abuse on anyone. *In re Complaint of Judicial Misconduct*, 761 F.3d 1097, 1098-99 (9th Cir. 2014) (dismissing as unsupported allegations that a judge’s comments were rude, derogatory, or intemperate because the judge did not use demeaning language or heap abuse on anyone). Accordingly, these allegations are dismissed as unfounded.

Finally, complainant alleges that both the district judge and magistrate judge issued several orders without a signature. A review of the record shows that all orders were signed, except minute orders, which are generally not signed. Therefore, these allegations are dismissed as unfounded and belied by the record. *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 (9th Cir. Jud. Council 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”). Likewise, the use of electronic signatures, or the absence of signature on minute orders, is not conduct “prejudicial to the effective

and expeditious administration of the business of the courts,” thus, these allegations are dismissed. Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.