

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

JUL 2 2026

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

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 25-90159

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a magistrate judge. Review of this complaint 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 name of complainant and the subject judge 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 an action in district court asserting personal injury claims. The matter was assigned to a district judge not named in this complaint and referred to the magistrate judge. The district judge issued an order to show cause ("OSC") as to why the matter should not be dismissed due to lack of subject matter jurisdiction. After complainant filed a response to the OSC, the district judge dismissed the matter due to a lack of subject matter jurisdiction. The court docket indicates that the magistrate judge never issued any orders or rulings in the underlying matter.

The magistrate judge filed a notice addressed to the parties two weeks after the district judge dismissed the matter. The notice indicated that the magistrate judge had obtained stock in the defendant from an inheritance after the complaint was filed, but before the complaint was dismissed by the district judge. The notice stated that the magistrate judge had chosen to continue presiding over the case because the judge's stock would not be substantially affected by the outcome of the proceeding, and because the judge had divested the stock, as permitted by

Advisory Opinion No. 69 issued by the Judicial Conference of the United States Committee on Codes of Conduct.

Complainant alleges that the magistrate judge improperly accepted a financial benefit which caused an improper conflict, “not a harmless technicality.”

Advisory Opinion No. 69 specifically addresses a situation where a “disqualifying interest [does not surface] until after the judge has been assigned a case.” Commentary on Codes of Conduct, Advisory Opinion No. 69 (2009). The advisory opinion states that “if a judge learns of a disqualifying financial interest in a party before expending judicial time on the case, the judge may avoid disqualification by divesting himself or herself of the interest.” *Id.* The advisory opinion also states that if “a judge decide[s] to continue to participate in a matter following disposal of a disqualifying interest, the facts giving rise to the disqualification, the judge’s disposal of the disqualifying interest, and the public interest in continued participation of the judge should generally be disclosed” *Id.*

The notice filed by the magistrate judge indicates that the magistrate judge received an unexpected inheritance that was obtained after the complaint in district court was filed. Because the magistrate judge had not entered any orders or rulings in this matter, by divesting the stock in question and filing the notice on the court

docket, the magistrate judge complied with the requirements of Advisory Opinion No. 69. Therefore, the magistrate judge's actions do not qualify as misconduct.

See 28 U.S.C. § 352(b)(1)(A)(iii) (listing reasons the chief judge may decide to dismiss the complaint, including claims that are lacking sufficient evidence to raise an inference that misconduct has occurred); Judicial-Conduct Rule 11(c)(1)(A) (dismissal is appropriate if the allegation describes conduct that “even if true, is not prejudicial to the effective and expeditious administration of the business of the courts”).

DISMISSED.