

FILED

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

APR 2 2026
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 25-90208, 25-90209

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against a district judge and 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 names of the 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.

Complainant has filed a number of complaints challenging his conviction and incarceration. At least five of these complaints have been assigned to the district judge and referred to the magistrate judge.

Complainant alleges that his cases have been “improperly assigned” to the same judges, “contrary to the random selection method” required by the local rules. However, there is “no right to any particular procedure for the selection of the judge[,]” so long as the decision is made “in a manner free from bias or the desire to influence the outcome of the proceedings.” *See Cruz v. Abbate*, 812 F.2d 571, 574 (9th Cir. 1987). Moreover, the district's local rules specifically require that repeated pleadings by an incarcerated person or habeas corpus petitioner “must be directly assigned and referred to the same District Judge and Magistrate Judge” who handled the first case. The Ninth Circuit has acknowledged that this practice is generally “within the court's discretion and [] in the interests of efficiency.” *See In re Marshall*, 721 F.3d 1032, 1040 (9th Cir. 2013). Accordingly, this allegation

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

Complainant next alleges that the district judge (1) was “predisposed” to rule against him; (2) exhibited bias by “improperly evaluat[ing]” documents; and (3) showed “favoritism” by not imposing sanctions against the opposing parties. However, adverse rulings are not proof of bias. *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). Because complainant provides no objectively verifiable evidence to support these allegations, they are dismissed as unfounded. *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); *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”); Judicial-Conduct Rule 11(c)(1)(D).

Complainant next alleges that the district judge “put off ruling on a motion for over five months.” 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).

Because there is no indication of misconduct by the district judge, this allegation is dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Next, complainant alleges that the district judge committed misconduct in a number of ways, including (1) not giving “fair consideration” to his arguments; (2) dismissing complaints without leave to amend; (3) reclassifying or separating his claims for relief; (4) erroneously applying various Federal Rules of Civil Procedure; and (5) failing to review *de novo* a Report & Recommendation.

“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.” *See* Commentary on Rule 4.

Accordingly, these allegations are dismissed because they seek to challenge the judge’s decisions, including how the judge processed, evaluated, and resolved complainant’s various cases and claims. *See* 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are directly related to the merits of a decision or procedural ruling); *In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing as merits-related allegations that a judge made various improper

rulings in a case); Judicial-Conduct Rule 11(c)(1)(B).

Additionally, the allegation regarding *de novo* review of a Report & Recommendation is dismissed as belied by the record, which demonstrates that the district judge did “review the portions of the R&R to which there is a specific objection *de novo*” (italics added).

Finally, complainant alleges that the magistrate judge exceeded his authority by entering various orders, vouched for the opposing party, and made an “unfounded assumption” regarding the evidence. These allegations are dismissed because they are directly related to the correctness of the magistrate judge’s decisions and procedural rulings. *See* Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.