

Nov.1 2023

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 22-90016

**ORDER****MURGUIA**, Chief Judge:

Complainant, an attorney, has filed a complaint of judicial misconduct against a district 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 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.

Complainant alleges that the district judge “engaged in racially biased treatment” of the complainant, issued an order with racist rhetoric, and retaliated against complainant in connection with a Ninth Circuit appeal. Complainant states that the district judge applied a preferential standard when ruling on her white co-counsel's motions and acted “intentionally malicious and punitive.” However, a review of the docket reveals that the district judge denied complainant's petitions because the complainant requested forty percent of her clients' gross settlement amount in attorney's fees, which the district judge found unreasonable. Meanwhile, the district judge approved co-counsel's petition where co-counsel only requested twenty-five percent of the net settlement amount in attorney's fees. The record also shows that the district judge eventually approved complainant's revised petition for twenty-five percent in attorney's fees. Moreover, because complainant fails to provide any objectively verifiable evidence in support of 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 frivolous or lacking sufficient evidence to raise an inference that misconduct has occurred); In re Complaint of Judicial Misconduct, 687 F.3d 1188 (9th Cir. Jud. Council 2012) (“adverse rulings alone do not constitute proof of bias”); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the district judge “refuses to rule on . . . properly filed petition for minor’s compromise.” But delay is not misconduct “unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” Judicial-Conduct Rule 4(b)(2). Complainant provides no evidence of improper motive or unreasonable delay. Accordingly, this allegation must be dismissed.

**DISMISSED.**