

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

Feb. 21 2024
MOLLY C. DWYER, CLERK

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 22-90073

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, 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 wrongly failed to recuse himself, and his rulings reflected a bias against her. Challenges that are directly related to the merits of a decision, including allegations that a judge erred in failing to recuse, must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial–Conduct Rule 4(b)(1); 11(c)(1)(B).

Although an allegation that a judge presided over a case with a known conflict of interest may present a viable claim of judicial misconduct, neither complainant nor the record provides any evidence that a conflict existed. See In re Complaint of Judicial Misconduct, 816 F.3d 1266 (9th Cir. Jud. Council 2016) (explaining that prior professional association, including service on a board, did not give rise to the appearance of impropriety, or require recusal); In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (adverse rulings are not proof of bias). The allegations are therefore dismissed as baseless. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial–Conduct Rule 11(c)(1)(D).

DISMISSED.