

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 25-90045

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 the 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 filed a civil lawsuit that resolved with a settlement agreement. Later, complainant returned to the district court to continue litigating the same matter. The two subsequent lawsuits were dismissed with prejudice.

Complainant alleges that the district judge who handled all of the lawsuits committed misconduct by “ignor[ing]” and “refus[ing] to rule” on certain motions, as well as “hiding evidence” to “grant favor to the defendants.” He further alleges that these actions were taken in retaliation for complainant returning to court after settling the first case.

A review of the record shows that the judge ruled on every motion complainant filed, with some motions collectively denied as moot in the judge's final order dismissing the case. Accordingly, these allegations are denied as belied by the record and 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’s allegations that the district judge “ignored” his pleadings and “suppressed” evidence are really disagreements over how the judge resolved the legal issues raised in the pleadings. Adverse rulings are not proof of bias or misconduct. *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). Accordingly, these allegations are dismissed because they relate directly to the merits of the judge’s decisions. *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); *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).

Complainant’s allegation that the district judge retaliated against him is denied as belied by the record and unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.