

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. 25-90000

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 lawsuit, which was dismissed after the district judge issued a minute order granting the defendant's motion for judgment on the pleadings. Complainant alleges that the "rulings in this case were made under unfair circumstances." It appears complainant is merely challenging the rulings themselves, including the district judge's decision to strike certain motions from the record. This allegation is dismissed because it relates 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 next alleges that the district judge refused to sign the minute order to prevent complainant from appealing the decision and in retaliation for complainant threatening to file a complaint of judicial misconduct. The record

reflects that the district judge did sign the judgment, and complainant has since filed an appeal. As minute orders are generally not signed, complainant fails to describe conduct “prejudicial to the effective and expeditious administration of the business of the courts.” *See* Judicial-Conduct Rule 11(c)(1)(A). Although Judicial-Conduct Rule 4(a)(4) prohibits “retaliating against complainants [...] for participating in this complaint process, or for reporting or disclosing judicial misconduct,” complainant has not provided any evidence that the district judge’s issuing of the minute order was retaliatory in any way. Accordingly, this allegation is 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).

Similarly, complainant alleges that the district judge was “biased,” but provides no objectively verifiable evidence to support this conclusory allegation, which is dismissed as unfounded. *See id.*

Finally, complainant alleges that the district judge had “private knowledge of the disputed facts in the case.” Because he fails to explain the basis, content, or

impact of this “private knowledge,” this allegation is also dismissed as unfounded.

See id.

DISMISSED.