

FILED

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**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

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

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 25-90015

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 currently has a civil lawsuit pending before the district judge. He alleges that the district judge is retaliating against him in the pending case because complainant previously filed a misconduct complaint against the district judge. Complainant further alleges that the district judge's retaliation includes "stalking" complainant and ordering court clerks to assign all of complainant's cases to the district judge. A review of the record reveals no indication that the district judge has taken any retaliatory action; in fact, the district judge has not taken any action in the case because it has been referred to a magistrate judge for initial screening. Complainant provides no objectively verifiable evidence to support these conclusory allegations, which 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 Marshall*, 721 F.3d 1032, 1040 (9th Cir. 2013) (recognizing the inherent authority of judges to transfer cases "for the expeditious administration of justice" and that litigants have no due process right

to a particular procedure for case assignment); *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 lied to the Senate and in his application to become a judge. In an attempt to prove these alleged “lies,” complainant offers letters describing an investigation of a medical doctor and court filings involving complainant’s own mortgage that have nothing to do with the district judge. In addition to the fact that complainant fails to support this unfounded allegation with any reliable evidence, the Ninth Circuit has held that it would be improper to sanction a judge for conduct that occurred before the judge joined the federal bench. *See In re Complaint of Judicial Misconduct*, 570 F.3d 1144, 1144 (9th Cir. 2009). Moreover, complainant raised this same allegation in his previous complaint, which was dismissed. Accordingly, this allegation is dismissed as unfounded, duplicative of Complaint No. 19-90134, and beyond the scope of the Judicial-Conduct Rules. *See In re Complaint of Judicial Misconduct*, No. 10-90023 (9th Cir. Jud. Council 2010) (when complainant previously filed materially identical complaint against the same judge, the new complaint must be summarily dismissed); Judicial-Conduct Rules 11(c)(1)(D); 1 (Judicial-Conduct

Rules apply only to “covered” judges).

Finally, complainant alleges that the district judge is the “Ring-Leader of numerous US Attorney teams.” Complainant provides no objectively verifiable evidence to support this conclusory allegation, which is dismissed as unfounded.

See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.