

**FILED**

DEC 28 2015

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 15-90167

**ORDER**

**REINHARDT**, Circuit Judge<sup>1</sup>:

A pro se litigant filed a misconduct complaint against the magistrate judge who dismissed his civil cases and declared him a vexatious litigant. Complainant alleges that the judge’s decisions violated “the Rule of Law” and violated complainant’s due process rights. In order to avoid Judicial-Conduct Rule 3’s merits-related bar, complainant claims that his “complaint is not about wrong decisions.” Instead he characterizes the judge’s orders as “fraud upon the court,” and he speculates that the judge had an improper or illicit motive and “us[ed] his office to protect his fellow judges.”

It is clear that this dissatisfied litigant is merely contesting the judge’s rulings. The complainant’s “transparent attempt to relitigate” his case is merits-related and must therefore be dismissed. In re Complaint of Judicial Misconduct,

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<sup>1</sup>This complaint was assigned to Circuit Judge Stephen Reinhardt pursuant to Judicial-Conduct Rule 25(f).

579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009) (“The judicial misconduct system is emphatically not a forum for disappointed litigants to continue litigation already decided on the merits.”); see 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B). Further, there is no evidence that the judge harbored any bias against complainant or was otherwise acting with a corrupt motive, so these charges must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009).

Complainant alleges that the record demonstrates that the judge’s “pattern” of violating the Constitution, various statutes, and the Code of Conduct reflects adversely on the judge’s trustworthiness and brings the judiciary into disrepute. A “pattern and practice” of “disregarding prevailing legal standards . . . may be misconduct.” In re Judicial Conduct and Disability, 517 F.3d 558, 562 (U.S. Jud. Conference 2008). But to avoid the merits-related bar, a complainant must at least allege that the rulings in question have been reversed on appeal. The Judicial Council can only determine whether a series of rulings that have been found erroneous by a higher authority constitutes a willful pattern and practice of disregarding established legal norms. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 962 (9th Cir. Judicial Council 2011). Because complainant has not

pointed to a single decision reversed on appeal, this charge must be dismissed as wholly unsupported. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant has sent letters under Judicial-Conduct Rule 5(a) asking that a complaint be identified against other judges in the same district for not reviewing the allegedly defective orders of the subject magistrate judge. Under Rule 5, a complaint must be identified “only if the evidence of misconduct is clear and convincing.” In re Complaint of Judicial Misconduct, 644 F.3d 844 (9th Cir. Jud. Council 2011) (internal quotation marks omitted). Complainant has not provided “information constituting reasonable grounds for inquiry,” much less clear and convincing evidence that any judge has engaged in misconduct. See Judicial-Conduct Rule 5(a). Thus, there is no basis for identifying a complaint under Rule 5.

**DISMISSED.**