

**FILED**

JUL 25 2019

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 17-90121

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against all district judges of one particular district, as well as all circuit judges who were formerly district judges. The instant complaint is essentially identical to other complaints previously filed by other prisoners at the same correctional facility. 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 judges 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.

As an initial matter, complainant argues that “all circuit judges assigned to the Ninth Circuit are identified as subject judges” and are therefore disqualified from reviewing this complaint. Ordinarily, Judicial-Conduct Rule 25(b) requires that a subject judge be disqualified from considering a misconduct complaint.

However,

the Rules also recognize that rigid adherence to the disqualification requirement in multiple-judge complaints might lead to the disqualification of all of the judges who would ordinarily be involved in the misconduct complaint procedure. The Rules therefore contemplate that subject judges may participate in the disposition of an “insubstantial complaint” naming numerous judges.

In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. 2009); see also Commentary to Judicial-Conduct Rule 25 (“There is no unfairness in permitting the chief judge to dispose of a patently insubstantial complaint that

names all active circuit judges in the circuit”). For the reasons discussed below, the instant complaint is so insubstantial that there is no unfairness in permitting a subject judge, including myself as Chief Judge, to participate in its review.

First, complainant alleges that Congress has no authority to establish “federal regulatory crimes,” and that the legislature and federal courts have committed “criminal misconduct” by creating and adjudicating such offenses. Complainant also alleges that federal courts have no subject matter jurisdiction over sex trafficking, child pornography, or related offenses, and also lack jurisdiction over any offenses occurring outside of a “federal enclave.”

Complainant is incorrect. See, e.g., 18 U.S.C. § 3231 (“The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States”); United States v. Sullivan, 797 F.3d 623, 631-32 (9th Cir. 2015) (“Congress could rationally ‘conclude that homegrown child pornography affects interstate commerce,’ and therefore Congress may regulate even purely intrastate production of child pornography”); U.S. v. Walls, 784 F.3d 543, 548 (9th Cir. 2015) (“Congress found that [sex] trafficking of persons has a substantial aggregate economic impact on interstate and foreign commerce . . . and that finding is not irrational”). Moreover, any constitutional or jurisdictional challenges to complainant’s underlying conviction

is directly related to the merits of the judge's rulings, and must be dismissed. 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).

Complainant next alleges that the subject judge—and all federal judges—have an inherent conflict of interest in any criminal case because a conviction “further results in the issuance of a judgment bond, establishing profit and gain for the subject judge.” Complainant further alleges that federal judges “receive dividends, annuities, and/or residuals” from such bond deposits, which creates “a financial incentive” for judges to act without jurisdiction and to encourage convictions. Complainant offers no proof to support his claims that judges receive “dividends” or other financial benefits from bond deposits or court registry funds, that compensation for federal judges is in any way affected by the number of convictions in their districts, or that judges have any pecuniary or other interest in securing bond payments from criminal defendants. Accordingly, these allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. 2009); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the subject judge has engaged in racketeering, bribery, conspiracy, kidnapping, and other criminal acts. However,

adverse rulings are not proof of misconduct, and complainant provides no objectively verifiable evidence to support these vague and conclusory allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) (“As we have frequently held, adverse rulings, standing alone, are not proof of misconduct”); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**