

JUL 13 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 18-90041, 18-90042
and 18-90043**ORDER****GRABER**, Circuit Judge¹:

Complainant, a pro se prisoner, has filed a complaint of misconduct against three circuit judges. 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,

¹This complaint was assigned to Circuit Judge Susan P. Graber pursuant to 28 U.S.C. § 351(c).

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.

The three judges named by complainant affirmed an order denying a motion for relief from judgment in complainant's underlying 42 U.S.C. § 1983 action, and also denied complainant's petition for panel rehearing. In the latter order, the judges alerted complainant that the "full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc." Complainant alleges that the failure of the entire appellate bench to hear his case amounts to a violation of his rights. Complainant contends that "it seemed likely that the majority of all active judges would reach a different conclusion that the panel assigned to his case...." These allegations relate directly to the merits of the judges' 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).

To the extent that complainant alleges that the judges' rulings were based on race or "ancestry," adverse rulings are not proof of bias, and complainant

provides no objectively verifiable evidence to support these allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.