

DEC 10 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 18-90126

ORDER**THOMAS**, Chief Judge:

Complainant, a federal prisoner, 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 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 alleges that the judge improperly denied a motion for additional funds, failed to consider pro se submissions by complainant (who was represented by counsel throughout the underlying proceedings), and made various other improper rulings in the underlying criminal case. These allegations relate directly 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 also alleges that the judge was biased or had a conflict of interest because complainant's appointed attorney worked for the judge's former law firm. However, the fact that a judge previously worked for the same law firm as an attorney appearing before the court is not, by itself, cause to question the judge's impartiality. See In re Complaint of Judicial Misconduct, No. 13-90073 (9th Cir. Jud. Council, Feb. 26, 2014). This is particularly true where, as here, the judge worked for the law firm for a relatively short period, fifteen years before her appointment to the bench. Complainant presents no objectively verifiable

evidence of bias or a disqualifying conflict of interest, and accordingly, this allegation must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 828 F.3d 1179, 1180 (9th Cir. Jud. Council 2016); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant raises allegations against defense counsel or a probation officer, such allegations are dismissed because this misconduct complaint procedure applies only to federal judges. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

DISMISSED.