

DEC 10 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 18-90128, 18-90129,
18-90130, 18-90144, 18-90145,
18-90146, 18-90147, 18-90148
and 18-90149**ORDER****THOMAS**, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against five circuit judges, three district judges and a magistrate 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 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.

Complainant alleges that his motion to vacate judgment was misconstrued as a habeas petition, and that as a result several invalid rulings were entered by the subject judges. Such 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).

Complainant addressed his filing to a particular district judge, and thus contends that his case should have been assigned to her instead of to another district judge. However, "a litigant has no right to any particular procedure for the selection of the judge, so long as the judge is chosen in a manner free from bias or the desire to influence the outcome of the proceedings." In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011) (internal quotations omitted). Complainant offers no evidence that the subject judge was involved in the assignment of the underlying case or acted with an improper

motive. Because complainant offers no other evidence to support this claim, this charge must be 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. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judges conspired against him. He claims that the Clerk of Court advised him that the circuit judges made an agreement with the district judges to deny him relief, however, pursuant to a limited inquiry, the court clerk confirmed that she had no such communication with complainant. Adverse rulings are not proof of conspiracy, and complainant provides no objectively verifiable evidence to support any of these 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, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.