

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 18-90141

ORDER

THOMAS, Chief Judge:

Complainant, an attorney, 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 revoked complainant's pro hac vice admission, improperly entered rulings while a motion to recuse was pending, and made various other incorrect rulings in the underlying 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 next alleges that the judge is biased because she taught and attended law school at a university that is a party to the underlying civil case. The fact that a judge previously attended or taught at a particular university is not proof of bias, a conflict of interest, or other misconduct. See In re Complaint of Judicial Misconduct, 816 F.3d 1266, 1267-68 (9th Cir. Jud. Council 2016) (“[a judge’s] graduation from a university, prior service as an adjunct, and the receipt of alumni awards do not create the appearance of impropriety”). Complainant contends that the judge is “extra judicially influenced by her deep, personal

relationship” with the university, and suggests that the judge revoked complainant’s pro hac vice admission due to this alleged bias. However, in the order revoking pro hac vice status, the judge provided several reasons for her ruling, including the fact that several courts have sanctioned complainant for professional ethics violations, have revoked his pro hac vice admission, and/or have permanently banned him from appearing in court. The judge also noted that two state bar associations have brought disciplinary proceedings against complainant for violating rules of professional conduct. Finally, the judge noted that in the underlying case, complainant provided false information, flouted local and federal rules, accused judges of bias without an adequate factual basis, and demonstrated a “pattern of disregard for local rules, ethics, and decorum” and a “lack of respect for the judicial process.” In light of this record, complainant fails to show that the judge’s revocation of his pro hac vice admission was due to bias or favoritism toward the judge’s alma mater. To the extent complainant disagrees with the judge’s assessment of his conduct, this charge relates 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). Moreover, “[a]s we have frequently held, adverse rulings, standing alone, are not proof of

misconduct.” In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013). Accordingly, this allegation is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. 2009).

Complainant has now filed three misconduct complaints raising similar allegations, which have been dismissed as speculative and unfounded. In a previous order, complainant was cautioned that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” See In re Complaint of Judicial Misconduct, No. 18-90024 (9th Cir. Jud. Council, June 18, 2018). Complainant is advised that any future complaints raising speculative, merits-related, or unfounded allegations will be summarily dismissed, and an order to show cause as to why complainant should not be restricted from filing further misconduct complaints will issue.

DISMISSED.