

**FILED**

MAR 25 2019

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 19-90040  
**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se plaintiff in a civil case, 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 failed to rule on his claim that the defendants in the underlying case “lacked standing.” However, the record shows that the judge did address and reject this argument in a footnote to his order dismissing the action. This allegation is therefore “conclusively refuted by objective evidence” and must be dismissed. 28 U.S.C. § 352(b)(1)(B).

Complainant also alleges that the judge failed to specifically address other claims raised in the underlying complaint. This allegation too is belied by the record, which shows that the judge addressed and rejected each cause of action raised by complainant, and declined to address complainant's requests for relief (which complainant numbered as “claims”). Moreover, any allegation that the judge overlooked certain claims is a merits-related challenge properly raised on appeal and is non-cognizable in these judicial misconduct proceedings.

Accordingly, this allegation must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii),

(b)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

**DISMISSED.**