

**FILED**

JUL 25 2019

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 19-90076

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against 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 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 misapplied precedent, improperly recommended dismissing his underlying civil action, and made various other incorrect rulings. 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 has intentionally disregarded controlling case law. Although a “pattern and practice” of disregarding prevailing legal standards may amount to misconduct,

a complainant must at a minimum allege that the rulings in question have been reversed on appeal . . . . Moreover, a single reversal, or even a handful of reversals, doesn’t prove misconduct . . . . The number of erroneous rulings must be large enough that it could constitute a pattern.

In re Complaint of Judicial Misconduct, 631 F.3d 961, 962-63 (9th Cir. Jud.

Council 2011). Here, complainant “hasn’t pointed to even a single decision that was reversed on appeal” and thus fails to demonstrate “a pattern and practice of

disregarding the law.” Id. 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).

**DISMISSED.**