

FILED

SEP 23 2019

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 19-90088

ORDER

THOMAS, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district court 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 presided over a recusal motion, in violation of a general order. This allegation relates directly to the merits of the judge's ruling and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Judicial Misconduct, 756 F.3d 1143, 1144 (9th Cir. Jud. Council 2014) ("Allegations that a judge erred in failing to recuse are merits-related and must be dismissed"); In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011) ("A failure to recuse may constitute misconduct only if the judge failed to recuse for an improper purpose There's no evidence that happened here"); In re Judicial Misconduct, 623 F.3d 1101, 1102 (9th Cir. Jud. Council 2010) ("A judge's decision to hear a case rather than to recuse is merits-related and the Judicial Council, an administrative body, does not review the correctness of a judge's decisions"); Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.