

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. 19-90118

ORDER

THOMAS, Chief Judge:

Complainant, an individual who assists prisoners with pro se filings, 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 he assisted a federal prisoner in preparing and filing a 28 U.S.C. § 2255 motion, and that the subject judge failed to timely enter rulings or respond to the prisoner's requests for status updates. Complainant also suggests that the judge's "advanced age" may have affected his ability to enter timely rulings. A review of the record shows that approximately eleven months after the prisoner filed his § 2255 motion, the judge issued an eighteen-page order denying that motion and related motions. The judge also noted that issuance of his order was delayed due to staffing changes and other pressing matters.

On this record, there was no unreasonable delay in the underlying proceedings. Moreover, complainant fails to show or allege that any delay was improperly motivated, or that the judge has habitually delayed ruling in a significant number of unrelated cases. Accordingly, these allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009); In re

Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009)

(“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009); Judicial-Conduct Rules 4(b)(2), 11(c)(1)(D).

DISMISSED.