

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**

Nos. 19-90123 and 19-90124

ORDER

THOMAS, Chief Judge:

Complainants, pro se litigants, have filed a complaint of judicial misconduct against a district judge and 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 complainants and the subject judges 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.

Complainants allege that the magistrate judge has improperly entered rulings in the underlying case without consent jurisdiction. However, district judges may designate magistrate judges to hear and determine pretrial matters and issue non-dispositive orders. See 28 U.S.C. § 636(b); Flam v. Flam, 788 F.3d 1043, 1046 (9th Cir. 2015). Moreover, a review of the underlying docket reveals that the magistrate judge did not issue any dispositive orders in this case.

Accordingly, this allegation is dismissed as unfounded and for failure to allege misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); In re Complaint of Judicial Misconduct, 647 F.3d 1181, 1182 (9th Cir. Jud. Council 2011) (“Because complainant doesn’t allege conduct ‘prejudicial to the effective and expeditious administration of the business of the courts,’ her charges must be dismissed”); Judicial-Conduct Rules 11(c)(1)(A), (D).

Complainants also allege that the district judge failed to sign his orders and allowed the opposing party to prepare proposed orders. However, judges are not required to sign their orders, and failing to do so is not “prejudicial to the effective and expeditious administration of the business of the courts.” Judicial-Conduct Rule 11(c)(1)(A); see also In re Complaint of Judicial Misconduct, No. 11-90097 (9th Cir. Jud. Council, July 29, 2011). Nor does it constitute misconduct for a judge to request one or more parties to prepare a proposed order. Accordingly, this allegation is dismissed for failure to allege cognizable misconduct.

Complainants further allege that the judges are biased against pro se litigants and have colluded with opposing counsel. Adverse rulings are not proof of bias or conspiracy, and complainants provide no objectively verifiable evidence to support this allegation, which is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011) (“adverse rulings do not prove bias or conspiracy”); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainants allege that the district judge improperly delayed ruling in the underlying case. A review of the docket indicates that the case has proceeded in due course. Moreover, complainant offers no evidence that any

alleged delay was based on improper motive, or that the district judge habitually delayed ruling in a significant number of unrelated cases, and accordingly this charge must be dismissed. See Judicial-Conduct Rule 4(b)(2); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009).

DISMISSED.