

**FILED**

AUG 20 2020

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 20-90042 and 20-90043

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se litigant, has 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 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 magistrate judge is biased against him due to his history with the courts. Complainant discusses a previous negative interaction he had with the court. Though the subject judges were not directly involved in that interaction, complainant argues that they are biased against him based on their knowledge of that incident. Complainant provides no objective evidence to support his speculation that the subject judges were aware of his previous negative interaction with the court. These unsupported allegations lack sufficient evidence to raise an inference of bias and are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“complainant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the magistrate judge is biased against him because she found that his civil rights complaint did not state a cognizable claim.

Complainant offers no objectively verifiable evidence to support this allegation of bias. See In re Complaint of Judicial Misconduct, 687 F.3d 1188 (9th Cir. Jud. Council 2012) (“adverse rulings alone do not constitute proof of bias”).

Complainant also alleges that the magistrate judge’s bias towards him has resulted in a delay of his six civil actions before the Court. An allegation of delay is not cognizable as misconduct absent an improper motive to delay a particular decision or habitual delay in a significant number of unrelated cases. See Judicial–Conduct Rule 4(b)(2); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009). Complainant provides no such evidence.

To the extent complainant alleges that the district judge improperly adopted the recommendations of the magistrate judge or that the district judge should change the venue for his case, these allegations are merits-related 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).

To the extent complainant raises allegations of perjury against a deputy attorney general, such allegations are dismissed because the misconduct complaint procedure applies only to federal judges. See In re Complaint of Judicial

Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

Finally, complainant alleges that the district judge is related to an attorney who served as opposing counsel in a family law matter that complainant was involved in. Complainant provides no objectively verifiable evidence to support these allegations. Accordingly, these allegations are dismissed as unfounded.

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); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**