

FILED

OCT 19 2020

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 20-90056

ORDER

THOMAS, Chief Judge:

Complainant, a pro se litigant, 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 the district judge is covering up the biased and unethical actions of a Superior Court judge who presided over complainant's civil case regarding a joint venture agreement. To support his allegation, complainant points to the fact that the district judge denied a motion for a temporary restraining order. In denying that motion, complainant alleges the district judge also improperly stated that defendants were not given proper notice. These issues directly relate to the merits of the case and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009).

Complainant further supports his allegation of bias with his belief that the district judge failed to read the civil complaint. To support his belief, he points to one of the district judge's orders, in which she stated that the complaint was difficult to summarize because of its length and confusing nature. To the extent the district judge found the complaint difficult to decipher, that does not constitute misconduct. Beyond a reference to the above statement, complainant submits no

evidence to support his allegation that the district judge failed to read the civil complaint, which is 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) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the district judge lied by stating that a witness was a defendant. A review of the docket shows that the district judge was merely quoting a motion filed by the plaintiff, which stated that the witness was a defendant. This allegation is therefore “conclusively refuted by objective evidence” and must be dismissed. 28 U.S.C. § 352(b)(1)(B).

DISMISSED.