

FILED

DEC 23 2020

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 20-90070, 20-90071,
20-90072 and 20-90073

ORDER

THOMAS, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district judge and three circuit judges. 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 erroneously dismissed his civil rights case and his Petition for Writ of Habeas Corpus. A review of the underlying record reveals that the civil rights case was dismissed due to a statutory restriction, and the petition was dismissed because it was a second or successive petition, which is statutorily barred without the authorization of the Court of Appeals to file such a petition. Accordingly, this allegation is refuted by the record. Moreover, any allegation that the judge issued an erroneous order is a merits-related challenge and must be dismissed on those grounds as well. See 28 U.S.C. § 352(b)(1)(A)(ii), (b)(1)(B); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009).

Complainant next alleges that the district judge has a mental condition that causes him to act belligerently and to be influenced by other individuals rather than the law. This mental condition, complainant explains, prevents the district judge from comprehending that the complainant is owed billions of dollars in

damages. Complainant provides no 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, 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 three circuit judges are mentally incompetent because they were aware of complainant’s innocence, but chose not to do anything about it by denying his application to file a second or successive petition. Complainant provides no objectively verifiable evidence that the judges are mentally incompetent. Additionally, this allegation directly relates to the merits of the judges’ ruling and must be dismissed. See 28 U.S.C.

§ 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) (“adverse rulings, standing alone, are not proof of misconduct”).

DISMISSED.