

DEC 23 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 20-90084

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 blind. He makes this allegation because in his dismissal order, the judge referenced a statute that was different from the statute under which complainant was seeking relief. However, a review of the record shows that this was a typographical error and the reference to the statute did not play a substantial role in why complainant's case was dismissed. Regardless, complainant is challenging the merits of the case and this allegation is accordingly 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).

Complainant next alleges that the district judge improperly dismissed his case because he mistakenly believed that complainant was suing several federal judges in their judicial capacities. However, a review of the record reveals that complainant was challenging the judges' dismissal of his cases. These actions fall squarely into those taken by judges in their judicial capacities. Accordingly, this allegation is dismissed as unfounded and conclusively refuted by objective

evidence. See 28 U.S.C. § 352(b)(1)(A)(iii), (B); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009) (“adverse rulings alone do not constitute proof of bias. Because there is no evidence that misconduct occurred, these charges must be dismissed”); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.