

**FILED**

FEB 4 2021

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 20-90109  
**ORDER**

**THOMAS**, Chief Judge:

Complainant, a 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 discriminated against her on the basis of her race. In support of this allegation, she lists several factual and evidentiary findings she believes the district judge made in error. However, complainant provides no objectively verifiable evidence to support these allegations, which 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) (“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).; Judicial-Conduct Rule 11(c)(1)(D).

Complainant next alleges that the district judge improperly granted summary judgment to benefit the defendants. Complainant provides no objectively verifiable evidence that the judge's ruling was intended to benefit the defendants. This allegation is related 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 also alleges that the district judge engaged in extrajudicial activities that benefitted the defendants. Complainant does not provide any details regarding the alleged extrajudicial activities. Because she failed to provide objectively verifiable evidence in support of this allegation, it must be 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).

Finally, complainant alleges that a monetary penalty imposed a year and a half after her case was dismissed is unreasonable. However, any delay was due to the complainant’s continued appeal of that issue. Thus, this allegation is dismissed as non-cognizable and for failure to allege misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); 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). To the extent she challenges the monetary penalty, this allegation is related 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).

**DISMISSED.**