

FILED

MAR 16 2021

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 20-90117

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[s] 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 judge made several erroneous rulings, including denying his application to file his civil complaint anonymously. Additionally, complainant alleges that the judge made several false statements and only considered evidence submitted by defendants. Complainant argues that the judge made these errors because he is either biased, incompetent, negligent or has a disability. These allegations directly relate to the merits 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). Additionally, complainant does not provide any objectively verifiable evidence in support of his claims of bias or disability and the judge's rulings are not proof of a disability or bias. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009).

Complainant next alleges that the judge failed to respect complainant's presidential award for his military service and erroneously relied on court records to confirm his educational history. A review of the docket reveals that the judge referred to court records that determined that complainant did not receive such a

reward and did not attend the universities he claimed he did. Judges may refer to other case opinions or court records when analyzing issues raised in a proceeding. To the extent complainant alleges that the judge should not have referred to other case opinions or court records, these allegations are dismissed 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).

Finally, complainant alleges that the court clerk failed to file documents that complainant submitted for filing. To the extent complainants raise allegations against court staff, such allegations are dismissed because this 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.

DISMISSED.