

**FILED**

APR 15 2021

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 20-90121

**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 filed a civil suit related to his underlying criminal conviction. Complainant alleges that the judge concealed critical evidence, repeatedly failed to make rulings on several motions due to an undisclosed bias, and did not provide complainant an opportunity to be heard or present evidence.

To the extent complainant alleges that the judge concealed evidence, this allegation must be dismissed because he provides no objectively verifiable evidence in support of this allegation, which is entirely speculative. See 28 U.S.C. § 352(b)(1)(A)(iii), (B); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”).

Complainant next alleges that the judge repeatedly failed to make rulings on several motions. However, an allegation of delay is not cognizable as misconduct unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases. See Judicial-Conduct Rule 4(b)(2); In re Complaint of Judicial Misconduct, 584. Complainant argues that the delay was caused by the judge’s bias, personal or political, to protect his friends.

However, complainant fails to provide further information about this alleged bias and absent objectively verifiable evidence in support of this allegation of bias, this allegation must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii).

Finally, complainant alleges that the judge did not provide him with an opportunity to be heard or present evidence. Whether a judge decides a motion without argument is directly related to the merits of a case. Accordingly, this allegation 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).

**DISMISSED.**