

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 20-90140 and 20-90141

ORDER

THOMAS, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against a magistrate judge and 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 petition for writ of habeas corpus requesting compassionate release. The complainant alleges that the magistrate judge improperly dismissed his request. This allegation is merits-related 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 next alleges that the district judge illegally refused to rule on complainant's motion for recusal and objections to the magistrate judge's findings and recommendation. 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 F.3d 1230, 1231 (9th Cir. Jud. Council 2009). Complainant provides no evidence of improper motive or habitual delay. Accordingly, this allegation is dismissed.

Complainant also alleges that the magistrate judge and district judge suffer from mental illnesses and are guilty of insubordination, treason, and sedition. He

also alleges that the magistrate judge and the district judge and conspiring with the Bureau of Prisons to deprive him of his rights. Complainant submits no objective evidence in support of these incredible allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011) (“adverse rulings do not prove bias or conspiracy”); In re Complaint of Judicial Misconduct, 569 F.3d 093 (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).

DISMISSED.