

NOV 5 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 21-90040, 21-90041
and 21-90042**ORDER****THOMAS**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against three magistrate judges. 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 three affidavits challenging certain state public health guidelines and sought monetary relief due to the damage caused by those guidelines. Complainant filed those affidavits as miscellaneous cases. Upon review, the magistrate judge reclassified them as a single civil case. In the instant misconduct complaint, complainant alleges that the judge's reclassification was improper. Though the two other magistrate judges were not involved in the reclassification, complainant brings the same allegations against the two other magistrate judges. These allegations directly relate to the merits of the case 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).

Complainant also alleges that by reclassifying the case, the judge improperly administered complainant's property and tampered with evidence. Complainant again brings the same allegation against the other two subject judges, though they were not involved in reclassifying the case. Judges regularly review filings and make determinations after such reviews and doing so is not an

improper administration of property or tampering of evidence. This allegation is dismissed as frivolous. See 28 U.S.C. § 352(b)(A)(iii); Judicial-Conduct Rule 11(c)(1)(C).

DISMISSED.