

JUL 30 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**Nos. 21-90052, 21-90053  
and 21-90054**ORDER****GRABER**, Circuit Judge<sup>1</sup>:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against three circuit 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

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<sup>1</sup>This complaint was assigned to Circuit Judge Susan P. Graber pursuant to 28 U.S.C. § 351(c).

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 three circuit judges discriminated against him by improperly dismissing his appeal. This allegation is merits-related, and complainant does not provide any objectively verifiable evidence in support of his allegation of discrimination. Accordingly, this charge 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); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) (“adverse rulings, standing alone, are not proof of misconduct”); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011) (“adverse rulings do not prove bias or conspiracy”).

Complainant next alleges that the three circuit judges improperly determined that complainant failed to file a motion that would have tolled his time to appeal. The three circuit judges made this determination because the underlying docket did not reveal any motions that would have tolled complainant's time to appeal.

Complainant argues that the three circuit judges made that determination in error because even though the motion does not appear on the docket, complainant filed the motion. This allegation not only relates to the merits of the case since complainant is challenging the panel's reasoning behind its finding of lack of jurisdiction, but it is also unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii).

**DISMISSED.**