

**FILED**

NOV 26 2021

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 21-90058

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a lawyer, 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 district judge improperly directed court personnel to engage in conduct on the judge's behalf in violation of Judicial Code of Conduct Canon 3(B)(2), which discourages judges from directing court personnel to engage in conduct on the judge's behalf if that conduct would contravene the Code if undertaken by the judge. In support of this allegation, complainant states that court personnel informed complainant that they would not take action on a motion complainant filed and did not docket the motion. However, a review of the record reveals that complainant attempted to file said motion in response to the district judge ordering complainant to cease all communications with the court. This order was issued after numerous attempts by the complainant at ex parte communications both while complainant was attorney of record and even after his pro hac vice admission was revoked in the matter, barring him from representing the plaintiffs in the case. Even if the judge himself decided to inform complainant that he would take no action on the motion, such action would not contravene the Judicial Code of Conduct. Because there was no

misconduct, no further action is required. See In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009).

Complainant next alleges that the judge similarly directed court personnel to block his notice of appeal, in violation of the Judicial Code of Conduct. However, when complainant filed his notice of appeal, he was no longer a party to the case. Because there was no misconduct, no further action is required. See id.

**DISMISSED.**