

JUL 14 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 21-90063

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a magistrate 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 magistrate judge improperly recommended that his motion for in forma pauperis status be denied. Because this allegation relates directly to the merits of the judge's ruling, the complainant has not alleged facts that might amount to judicial misconduct, and therefore the charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including claims directly related to the merits of a decision); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982) (Judicial Council found charges of judicial misconduct were properly dismissed by chief judge when, as here, "appellate review, not the procedures for judicial misconduct" was the proper remedy); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the magistrate judge improperly ruled in his case and should not be allowed to rule in any other case he has filed because complainant never consented to magistrate judge jurisdiction. This allegation is belied by the record because the magistrate judge only issued findings and recommendations. Accordingly, this allegation is dismissed as unfounded and

conclusively refuted by objective evidence. See 28 U.S.C. § 352(b)(1)(A)(iii), (B);
Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 552
F.3d 1146, 1147 (9th Cir. Jud. Council 2009).

DISMISSED.