

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 21-90117

**ORDER****MURGUIA**, Chief Judge:

Complainant, a pro se prisoner, 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 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.

This misconduct complaint arises out of complainant's civil rights case against a state department of corrections for alleged Constitutional violations. In the instant misconduct complaint, complainant alleges that the district judge is biased against him. In support of that allegation, complainant points to the judge's denial of his motion to compel discovery. He argues that the judge believed the defendants when they claimed that they produced discovery responses to complainant's requests. However, adverse rulings are not proof of bias. See In re Complaint of Jud. Misconduct, 687 F.3d 1188 (9th Cir. Jud. Council 2012) (dismissing allegation of bias because complainant did not provide any objectively verifiable evidence such as names of witnesses, and adverse rulings alone do not constitute proof of bias). Because complainant has not offered any evidence of misconduct, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant next brings several allegations related to the merits of the case. These include allegations that the judge relied on hearsay evidence to deny complainant's motion to compel discovery, refused to consider facts presented by

the complainant when she denied his motion to amend his complaint, and refused to take judicial notice of facts that complainant submitted to the court. Because these allegations are merits-related, they 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); Judicial–Conduct Rule 11(c)(1)(B).

**DISMISSED.**