

**FILED**

APR 14 2023

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 21-90130, 21-90131, and  
21-90132

**ORDER**

**MURGUIA**, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against a circuit judge, a district judge, and 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 judges 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 has filed numerous petitions for a writ of habeas corpus, civil rights complaints, and requests for a certificate of appealability. Complainant alleges that all the judges incorrectly ruled against him, resulting in the denials of his petitions, dismissals of his complaints, and denials of his requests for a certificate of appealability. Because these allegations relate directly to the merits of the judges' rulings, 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 Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing allegations that a district judge and magistrate judge made various improper rulings as merits-related); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the district judge engaged in improper ex parte communications and partisan political activity; he further accuses the district judge of discrimination without providing any objectively verifiable evidence to support these allegations, which are dismissed as unfounded. See 28 U.S.C.

§ 352(b)(1)(A)(iii) (listing reasons the chief judge may decide to dismiss the complaint, including claims that lack sufficient evidence to raise an inference that misconduct occurred); In re Complaint of Judicial Misconduct, 900 F.3d 1163, 1166 (9th Cir. Jud. Council 2018) (dismissing as unfounded allegations that subject judges engaged in racketeering, conspiracy, and other criminal acts because complainant failed to provide objectively verifiable evidence in support of these allegations).

Finally, complainant also claims that the district judge was “impaired” in being able to discharge his duties as a judge. Because complainant provides no objectively verifiable evidence in support of this allegation, complainant’s statement is insufficient to “raise an inference that . . . a disability exists.”

Judicial–Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii) (“listing reasons the chief judge may decide to dismiss the complaint, including allegations “lacking sufficient evidence to raise an inference that misconduct has occurred”).

**DISMISSED.**