

Nov.1 2023

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

Nos. 22-90000 and 23-90036

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se prisoner, 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 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 committed misconduct by ignoring falsified documents and service errors, allowing untimely filings, and agreeing with defense counsel. Because these allegations relate directly to the merits of the magistrate judge's rulings, the complainant has not alleged facts that amount to judicial misconduct and the allegations 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 magistrate judge was unfair and exhibited bias and prejudice, but complainant provides no objectively verifiable evidence to support these allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); 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); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.