

June 21 2023

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

No. 22-90001

**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.

Complainant alleges that the district judge committed misconduct by failing to dismiss all criminal charges against complainant, and by failing to grant complainant's motions to dismiss his attorney and represent himself. Because these allegations relate directly to the merits of the judge's 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 made various improper rulings as merits-related); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also accuses the district judge of threatening and intimidating him. However, complainant provides no objectively verifiable evidence to support these allegations. Therefore, the complaint must be dismissed because complainant has not offered any evidence of misconduct. 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 or contain allegations which are incapable of being established through investigation); 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 conspiracy, and other criminal acts because complainant failed to provide objectively verifiable evidence in support of these allegations).

**DISMISSED.**