

Nov.1 2023

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

No. 22-90002

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, 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 lied on the record regarding contracts, ignored a Ninth Circuit order, and improperly ruled on a motion. These allegations relate directly to the merits of the judge's rulings and 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 next alleges that the district judge filed a conflict of interest, refused to clarify the basis for the conflict of interest, made documents inaccessible, and that these actions signify bias and other judicial misconduct. A review of the record reveals that the district judge clarified that an unrelated recusal order was erroneously filed in one of complainant's cases and ordered the unsealing of the recusal order. The conflict-of-interest allegation is therefore

“conclusively refuted by objective evidence” and must be dismissed. 28 U.S.C. § 352(b)(1)(B). Moreover, complainant provides no objectively verifiable evidence in support of the allegations of bias and other misconduct, 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 (9th Cir. Jud. Council 2018) (dismissing allegations that subject judges engaged in racketeering, bribery, conspiracy, kidnapping, and other criminal acts because complainant provided no objectively verifiable evidence in support of those allegations); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.