

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. 22-90012 and 22-90013

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

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against two circuit judges. 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 alleges that the circuit judges denied complainant court access, impeded *en banc* review of their “erroneous decision,” tried to trick complainant into paying the filing fees, and acted with improper motive and bias in denying his motion to proceed in forma pauperis. However, adverse rulings are not proof of bias, improper motive, or other misconduct, and complainant provides no objectively verifiable evidence to support these speculative allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) (“adverse rulings, standing alone, are not proof of misconduct”); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges the circuit judges improperly denied the motion for reconsideration. However, a review of the docket reveals that the motion was filed after the case had been dismissed and complainant failed to accompany his motion with proof of payment of the filing fees, as ordered by the court. Moreover, this allegation is related to the merits of the case and must be dismissed on that ground.

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.**