FILED

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

JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF **JUDICIAL MISCONDUCT**	No. 22-90038 **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 is a litigant who filed a civil rights action against a university. He alleges that the district judge's close affiliation with the university raises questions about the judge's impartiality. The district judge graduated from the university and serves on the board of visitors for the law school. A review of the docket reveals that the board of visitors is an advisory board and the judge stated that she has no financial interest in the case or the university. The judge's affiliation with the university, including her membership on the board of visitors, does not raise questions about the judge's impartiality nor do they create an appearance of impropriety. In re Complaint of Judicial Misconduct, 816 F.3d 1266, 1267-68 (9th Cir. Jud. Council 2016) (district judge's graduation from a university, prior service as an adjunct, receipt of alumni awards, and service on an alumni board did not create the appearance of impropriety). Minimal alumni contacts, including membership in an alumni board "when it does not create a fiduciary interest in pending litigation," does not create the appearance of impropriety. Id at 1268.

Complainant further alleges that the district judge's denial of the motion to recuse was "case manipulation for her own benefit and an egregious abuse of judicial authority." This allegation relates directly to the merits of the judge's rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011) ("Allegations that a judge erred in failing to recuse are generally dismissed as merits related"); Judicial-Conduct Rule 11(c)(1)(B). A failure to recuse may constitute misconduct if the judge failed to recuse for an improper purpose. See Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146 (2006); In re Complaint of Judicial Misconduct, 605 F.3d 1060, 1062 (9th Cir. Jud. Council 2010). However, the complainant does not provide any objectively verifiable evidence that the judge failed to recuse for her own benefit or any improper motive.

DISMISSED.