

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 22-90065

**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 improperly supervised law clerks and staff due to a disability, and that when the complainant reported the disability, the district judge retaliated against her by limiting ex parte communications with the court. Because complainant provides no objectively verifiable evidence supporting her allegations, and none can be found in the record, this allegation must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). To the extent complainant is challenging the judge's order prohibiting ex parte communication, the claim is related to the merits and must be dismissed. Judicial-Conduct Rule 11(c)(1)(B).

Complainant next alleges that the district judge has a pattern of failing to timely rule on motions by pro se litigants and of dismissing cases without reaching the merits. Although complainant declares that the judge "engages in this behavior only towards Pro Se litigants," she offers no examples beyond her own case, and even her examples do not support this allegation. The record reflects that the judge dismissed the case after considering the complaint, and that all motions were

denied either expressly or implicitly within a reasonable amount of time. Delay alone is not a basis for relief, absent “an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” See Judicial-Conduct Rule 4(b)(2); In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009). Because there is no evidence that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D) (listing reasons the chief judge may decide to dismiss the complaint, including claims that are frivolous or lacking sufficient evidence to raise an inference that misconduct has occurred).

Finally, complainant alleges that the district judge treated her in egregious and hostile manner. As proof, she points to the order of dismissal. Nothing in that order, or elsewhere in the record, suggests misconduct. See Id.; In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009) (dismissing allegations after a review of the underlying record refuted complainant’s allegations that the judge treated complainant with hostility); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**