

**FILED**

Jan.19 2024

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 22-90078, 22-90079,  
22-90080, and 22-90081

**ORDER**

**MURGUIA**, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against two district judges and two magistrate 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.

This misconduct complaint arises out of a civil rights case in which complainant claimed prison staff were deliberately indifferent to his safety. In his civil rights case, complainant attempted to change the venue of his case to another district. He argues that because of that attempted change of venue, a magistrate judge illegally transferred his case to another division within the same district. A review of the record shows that the magistrate judge transferred the case pursuant to a local rule, which requires actions arising out of a certain geographical area be transferred to the corresponding division of the district. Regardless, 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); In re Complaint of Jud. Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing allegations that a district judge and magistrate judge made various

improper rulings in a civil case because they were directly related to the merits of a decision); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also appears to allege that all four judges are engaged in collusion, suppressing and changing evidence, perjury, disregarding oaths of office, professional negligence, omissions of duty, and disregarding higher court orders. Complainant provides no objectively verifiable evidence in support of these vague allegations. In addition to the complainant providing no evidence in support of these allegations, nothing in the record supports these allegations, which are dismissed as unfounded. 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); In re Complaint of Judicial Misconduct, 900 F.3d 1163 (9th Cir. Jud. Council 2018) (dismissing as unfounded allegations that subject judges engaged in racketeering, conspiracy, and other criminal acts because complainant failed to provide objectively verifiable evidence in support of these allegations); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**