

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 22-90100

ORDER**MURGUIA**, Chief Judge:

Complainant, an attorney, 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 wrongly failed to recuse himself. Allegations that a judge erred in failing to recuse are merits related and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 4(b)(1); 11(c)(1)(B).

Although an allegation that a judge presided over a case with a known conflict of interest may present a viable claim of judicial misconduct, complainant provides no evidence that any actual conflict existed, and none can be found in the record. See In re Complaint of Judicial Misconduct, 816 F.3d 1266 (9th Cir. Jud. Council 2016). The allegations are therefore dismissed as baseless. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges the district judge deliberately delayed ruling on a motion and displayed an “improper motive to bar outside commentary from an independent journalist.” 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). The record is devoid of any indication that the judge deliberately delayed a ruling, harbored an improper motive, or barred access to the court. Because complainant has not offered any evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.