

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 22-90102

ORDER

WARDLAW, Circuit Judge¹:

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

¹ This complaint was assigned to Circuit Judge Kim M. Wardlaw pursuant to 28 U.S.C. § 351(c).

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 committed extortion by ordering him to pay attorney's fees to the prevailing party in a civil suit. This allegation relates directly to the merits of the judge's rulings, and therefore must be dismissed. 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 Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing as merits-related allegations that a district judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Complainant next alleges that the district judge made a variety of defamatory statements about him. To the extent he challenges the judge's credibility findings, following an evidentiary hearing, the allegations relate directly to the merits of the judge's rulings, and therefore must be dismissed. See id.

To the extent complainant alleges hostile treatment by the judge, including “constant and unrelating disparagement,” he fails to support the claim with sufficient evidence, and none can be found in the record. Accordingly, the allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 761 F.3d 1097, 1098-99 (9th Cir. Jud. Council 2014) (dismissing as unsupported allegations that a judge’s comments were rude, derogatory, or intemperate because the judge did not use demeaning language or heap abuse on anyone); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant notes a “curious sequence of events,” involving this case and a different lawsuit he filed, but he does not appear to be making an allegation of judicial misconduct. Because the facts he describes, “even if true, [are] not prejudicial to the effective and expeditious administration of the business of the courts,” this allegation must be dismissed under Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.