

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**

Nos. 24-90099, 24-90100,
24-90101, 24-90102, 24-90103,
24-90104, 24-90105, 24-90106,
24-90107, 24-90108, 24-90109,
24-90136¹

ORDER

WARDLAW, Circuit Judge²:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against a three district judges, a magistrate judge, and eight circuit 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 the complainant and the subject judges shall not be disclosed in this order. *See* Judicial-Conduct Rule 11(g)(2).

¹ The complaint against the third district judge mistakenly did not receive a consecutive case number. This case number was assigned on a later date.

² This complaint was assigned to Circuit Judge Kim M. Wardlaw pursuant to 28 U.S.C. § 351(c).

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 complaint may be dismissed if 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 has been involved in a number of criminal prosecutions, civil litigation, and related appeals. His allegations stem from a single comment made by the district judge who presided over drug-related charges filed against complainant. During a 2016 hearing, the district judge acknowledged that the complainant was “lucky” for having his criminal charges dismissed and advised complainant that he would be in “big trouble” if he continued to commit crimes. Complainant alleges that this comment caused all the other judges to later conspire together for the purpose of retaliating against him. He refers to this conspiracy as a “Confirmation Bias” or a “pattern of bias.” This comment does not amount to misconduct and does not support complainant’s conspiracy theory. Any allegations

against this district judge 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 are lacking sufficient evidence to raise an inference that misconduct has occurred); *In re Complaint of Judicial Misconduct*, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

The next district judge identified in the complaint presided over conspiracy-related charges filed against complainant. Complainant alleges that the second district judge’s decisions in the conspiracy case “blatantly ignored controlling legal precedent” and that her rulings were part of the conspiracy established by the first district judge. However, adverse rulings alone are not proof of bias. *See In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016). Accordingly, this allegation is dismissed as unfounded and as an impermissible challenge to the merits of the judge’s decisions. *See* 28 U.S.C. § 352(b)(1)(A)(ii), (iii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are directly related to the merits of a decision, or that claims are lacking sufficient evidence to raise an inference that misconduct has occurred); Judicial-Conduct Rule 11(c)(1)(B), (D).

Complainant later sought relief from the Ninth Circuit Court of Appeals following his conviction of the conspiracy-related charges. The first, second, and third circuit judges named in the complaint denied his request. Although complainant makes no specific allegations against these judges, his only grievance appears to be with their decision and alleged participation in the conspiracy to retaliate against him. Accordingly, any allegations against these circuit judges are dismissed as unfounded and impermissible challenges to the merits of the judges' decisions. *Id.*

The second district judge also presided over assault-related charges filed against complainant. The magistrate judge made recommendations in the assault case, and the fourth, fifth, and sixth circuit judges denied a request related to the assault case. Complainant alleges that all the judges involved in this matter "acted in direct contradiction to the law" because of their bias or participation in the conspiracy. Any allegations against these judges are dismissed as unfounded and impermissible challenges to the merits of the judges' decisions. *Id.*

Although complainant makes no specific allegations against the seventh and eighth circuit judges named in the complaint, it is noted that in 2021, these circuit judges also denied a request for relief filed by complainant, related to his conspiracy conviction. Because complainant offers no evidence of misconduct, and

adverse rulings are insufficient to prove bias, any allegations against these circuit judges are dismissed as unfounded and as impermissible challenges to the merits of the judges' decisions. *Id.*

Complainant also filed civil litigation against many defendants, including some of these subject judges. Complainant alleges that the third district judge dismissed the civil case as a “direct result” of the same conspiracy to retaliate against complainant. This allegation is dismissed for the reasons already explained. *Id.*

DISMISSED.