

MAR 5 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 24-90139, 24-90140

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district judge and a magistrate 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 the 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.

Complainant filed a civil lawsuit alleging discrimination, which was dismissed for failure to state a claim for relief. Although complainant had been granted in forma pauperis status in the district court, that status was revoked on appeal, after the district judge found that the appeal was frivolous.

Complainant alleges that the magistrate judge and the district judge “failed to liberally construe as required.” The magistrate judge stated that “the Court must construe [complainant’s] pleadings liberally, in the light most favorable to [complainant], and accept all non-conclusory allegations of material fact as true.” There is no evidence that the magistrate judge or the district judge applied the wrong standard. Accordingly, this allegation is dismissed as unfounded and belied by the record. *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).

Complainant next alleges that the magistrate judge and the district judge committed misconduct by ordering her to amend her complaint which, in complainant’s view, was not deficient. This allegation is dismissed because it relates directly to the merits of the judges’ decisions. *See* 28 U.S.C.

§ 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are 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 judge made various improper rulings in a case); Judicial-Conduct Rule 11(c)(1)(B).

Next, complainant alleges that the district judge “lied” and defamed her by calling her appeal frivolous. She further alleges that the district judge revoked her in forma pauperis status in retaliation for her exercising her right to appeal.

However, complainant offers nothing to support these allegations of defamation and retaliation, and adverse rulings are not proof of misconduct. *See In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016).

Accordingly, these allegations are dismissed as unfounded and as an impermissible challenge to the merits of the judge’s decision. *See* 28 U.S.C. § 352(b)(1)(A)(ii),

(iii); Judicial-Conduct Rule 11(c)(1)(B), (D).

DISMISSED.