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SEP 5 2025

MOLLY C. DWYER, CLERK

U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 25-90075, 25-90076

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against two district 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).

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 that was assigned to the first district judge named in this complaint. Complainant sought to have the first district judge removed from the lawsuit. The first district judge declined to voluntarily be recused from the lawsuit but, consistent with the local rules, referred the matter to the second district judge named in this complaint for further review. The second district judge affirmed that decision, explaining that complainant had “presented no arguments or evidence that could reasonably call [the first district judge's] impartiality into question.”

Complainant alleges that the first district judge resolved motions without full briefing or oral argument and failed to safeguard sensitive information by denying a motion to seal. Because complainant is merely challenging the judge's rulings, these allegations are dismissed because they relate directly to the merits of the judge's 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 first district judge did not enforce the defendant's procedural obligations, creating an appearance of bias. A review of the record does not support evidence of bias. Accordingly, this allegation is 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).

Finally, complainant alleges that the second district judge failed to review the first district judge's conduct or appearance of impropriety. A review of the record reveals that the second district judge reviewed, but ultimately rejected, complainant's request to remove the first district judge from presiding over the case. Because complainant merely challenges the second district judge's ruling, this allegation is dismissed because it relates directly to the merits of the judge's decisions. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.