

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**

No. 25-90077

ORDER

MURGUIA, Chief Judge:

Complainant 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 the 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 judge is “framing” her, “destroying evidence,” violating her rights under the Speedy Trial Act, and refusing to issue subpoenas or allow bail in her underlying criminal case. She further alleges that the judge has wrongly denied her requests for recusal and for the removal of her attorneys.

The allegations regarding “framing” and “destroying evidence” relate to the judge's decision to not docket certain letters complainant sent to the judge. The allegation regarding complainant's speedy trial right relates to the judge's decision that certain portions of time were “excludable” under that calculation. The allegations regarding subpoenas and bail similarly relate to the judge's decisions regarding how the underlying criminal case should proceed. Because all of complainant's allegations amount to impermissible challenges to the judge's decisions, they are all dismissed as merits related. *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). Moreover, the allegation that the judge wrongly denied her request for recusal is dismissed because “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” Judicial-Conduct Rule 4(b)(1). Finally, because complainant provides no objectively verifiable evidence to support these allegations, they are also 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).

To the extent complainant raises allegations against her attorneys and others, they are dismissed. *See* Judicial-Conduct Rule 1 (Judicial-Conduct Rules apply only to “covered” judges).

DISMISSED.