

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. 25-90084

ORDER

MURGUIA, Chief Judge:

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 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 a number of decisions the judge made in his underlying civil lawsuit were based on bias, including striking an unauthorized second amended complaint and a request to serve certain defendants by email. To the extent complainant challenges the judge's rulings, the 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).

Complainant provides no objectively verifiable evidence to support the allegations that the judge exhibited bias, or that the judge improperly ignored complainant's financial and medical hardships. Adverse rulings are not proof of bias. *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). Accordingly, the allegations 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).

Next, complainant alleges that the judge exhibited bias and set “impossible deadlines during [a] health crisis.” In fact, complainant had not revealed his health conditions to the judge until well after the deadlines in question were set. When complainant requested an extension of time based on his health conditions, the judge granted it. Unfortunately, complainant filed this misconduct complaint without waiting for the judge’s favorable ruling. Accordingly, these allegations are dismissed as unfounded and belied by the record. *See id.*

Finally, complainant alleges that the judge committed misconduct by admonishing him for submitting a motion containing “a non-existent case citation.” The conduct described “is not prejudicial to the effective and expeditious administration of the business of the courts.” *See* Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.