

FILED

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**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 25-90127, 25-90137

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed two complaints of judicial misconduct against a magistrate judge. Complainant's father filed these complaints on his behalf because complainant is a minor. 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 name of 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.

In the complaints, complainant alleges that the magistrate judge committed misconduct by denying his application to proceed *in forma pauperis* ("IFP application"), improperly denying complainant's motion to seal his IFP application, and improperly denying a motion to compel the court to issue summons. 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).

Complainant also alleges that the magistrate judge's actions constitute discrimination against pro se litigants. However, adverse rulings are not proof of

bias, and complainant provides no objectively verifiable evidence to support these baseless allegations, which 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).

Finally, complainant alleges that the magistrate judge was required to screen his complaint under 28 U.S.C. § 1915(a). Under 28 U.S.C. §1915(a), a court may authorize a plaintiff to commence an action without paying the necessary filing fees if it believes the plaintiff cannot afford to pay such fees. *See* 28 U.S.C.

§ 1915(a)(1). If a court grants such an application, a court will screen a complaint to determine whether 28 U.S.C. § 1915(e) mandates dismissal. However, because complainant’s IFP application was denied, there was no need for the complaint to be screened. Therefore, this allegation is also dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). To the extent complainant challenges the magistrate judge’s handling of complainant’s action,

the allegation is dismissed as merits related. *See* 28 U.S.C. § 352(b)(1)(A)(ii);
Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.