

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. 25-90153

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 filed a civil lawsuit, which the judge dismissed for failure to comply with certain pleading requirements.

Complainant alleges that the judge did not timely address his filings and “purposefully” delayed ruling on his request for counsel to prevent the case from proceeding. Without a showing of an “improper motive in delaying a particular decision or a habitual delay in a significant number of unrelated cases,” delay alone is not cognizable misconduct. *See* Judicial-Conduct Rule 4(b)(2). Despite complainant's belief that the judge acted “purposefully,” he has not demonstrated an improper motive. Because there is no indication of misconduct by the district judge, this allegation is 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).

Complainant next alleges that the judge exhibited bias favoring federal defendants. However, adverse rulings are not proof of bias. *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). Because complainant again provides no objectively verifiable evidence to support this allegation, it is dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the judge “dismissed the case without analysis.” The judge issued an 11-page order detailing the procedural problems in complainant’s first complaint and a five-page order analyzing whether the amended complaint complied with the Federal Rules of Civil Procedure. Although the judge did not address the merits of complainant’s underlying claims, it cannot be said that the case was dismissed without analysis. This allegation is denied as belied by the record. This allegation is also dismissed because it seeks to challenge the judge’s decisions, including the decision that the complaint was procedurally defective. “Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related. The phrase ‘decision or procedural ruling’ is not limited to rulings issued in deciding Article III cases or controversies.” *See* Commentary on Rule 4, *see also* 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 or procedural ruling); *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).

DISMISSED.