

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**

No. 25-90154

ORDER

WARDLAW, Circuit Judge¹:

Complainants, pro se litigants, have filed a complaint of judicial misconduct against the chief circuit 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 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 complaint may be dismissed if it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, is frivolous, or lacks sufficient evidence to raise an inference

¹ This complaint was assigned to Circuit Judge Kim McLane Wardlaw pursuant to 28 U.S.C. § 351(c).

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.

As background, complainants have initiated numerous actions in district court, as well as several unsuccessful appeals. More recently, complainants have also filed a number of judicial misconduct complaints. One misconduct complaint, filed in May of this year, was dismissed by the chief circuit judge in early August. Complainants filed another set of complaints in late July of this year that remain pending.

In this misconduct complaint, which was filed in early August of this year, complainants allege that the chief circuit judge failed "to take any timely action" on "urgent requests for emergency relief, judicial recusal, and judicial notice of misconduct involving multiple district judges under her jurisdiction." Complainants fail to identify with any detail which specific matters and filings are at issue.

The Judicial-Conduct Rules state that 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. Judicial-Conduct

Rule 4(b)(2). The chief circuit judge resolved the misconduct complaint filed in May in three months' time, and complainants' other misconduct matters were only filed several weeks before complainants filed this misconduct complaint. The chief circuit judge has not delayed in resolving complainants' misconduct matters, and there is no indication, much less evidence, that the chief circuit judge harbors an improper motive. Any allegations regarding improper delay 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 frivolous or 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 that complainants are alleging that the chief circuit judge failed to act on complainants' filings in the Court of Appeals, or in district court, the chief circuit judge does not review and is not required to review every filing submitted in the Court of Appeals or in district court. Thus, these allegations are also dismissed as unfounded. *See id.*

DISMISSED.