

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

FILED

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

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 25-90171

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 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.

Complainant alleges that the district judge committed misconduct by dismissing her complaint against the Equal Employment Opportunity Commission for failure to pay the filing fee. Complainant also alleges that the district judge committed misconduct by denying her application for *in forma pauperis* status and by denying her multiple motions for reconsideration. 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 then alleges that the district judge demonstrated discrimination and retaliatory intent by ruling against her. She also alleges that the district judge's actions demonstrate a pattern of court misconduct against complainant, since other judges, not named in this misconduct complaint, have dismissed her actions.

However, adverse rulings are not proof of bias, and complainant provides no objectively verifiable evidence to support these allegations, beyond disagreeing with the district judge’s decisions and reasoning, and the decisions of other judges. Therefore, these 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).

Complainant also alleges that the district judge failed to rule regarding her request for accommodations under the Americans with Disabilities Act. A review of the record indicates that complainant filed two such requests. The first request was included as part of complainant’s ex parte application for “Approval of Fee Waiver,” an application which was explicitly denied by the district judge. The second request was denied as moot by the district judge after the judge denied complainant’s second motion for reconsideration. Therefore, these allegations are dismissed as unfounded and belied by the record. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Next, complainant alleges that a five-day delay in docketing a motion demonstrates unreasonable delay and a pattern of delay by the district judge. Delay alone is not cognizable misconduct without a showing of an “improper motive in delaying a particular decision or a habitual delay in a significant number of unrelated cases.” Judicial-Conduct Rule 4(b)(2). Complainant has not presented any evidence of an improper motive, outside of her conclusory allegations. The only evidence of delay presented is a five-day delay in docketing one of complainant’s motions. The five-day delay in docketing does not constitute delay. Accordingly, this allegation is dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Though unclear, complainant also seems to allege that her underlying case was not assigned randomly and that the district judge was somehow improperly assigned the case. Complainant only offers conclusory statements supporting this allegation, so this baseless allegation is also dismissed as unfounded. *See id.*

Finally, complainant raises allegations against the Clerk’s office in the district, which are beyond the scope of the Judicial-Conduct Rules. *See* Judicial-Conduct Rule 1 (Judicial-Conduct Rules apply only to “covered” judges).

DISMISSED.