

FILED

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

JAN 28 2026
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 25-90215, 25-90270

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against two district judges. 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 judges 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 has filed a number of civil lawsuits against the same defendant, which have been assigned to the same district judge pursuant to the district's policy regarding related cases.

Complainant's most recent litigation was initially assigned to a different district judge ("first district judge") via random assignment. Defendants sought an extension of time and incorrectly informed the first district judge that complainant did not respond to their notice. The first district judge found good cause to grant the extension and stated that complainant had "not filed any opposition on the docket."

The case was then reassigned to the district judge who had handled complainant's other related cases ("second district judge").

Complainant submitted evidence that he had, in fact, objected to the extension, both by responding to the defendants and by filing a written opposition with the court. Unfortunately, complainant's opposition was not docketed until after the first district judge's order issued. The second district judge reconsidered

the issue and explained that “although the Court’s statement accurately represented what could be perceived from the docket...the Court made its order without considering [all relevant] materials.” The second district judge remedied the situation by striking the misstatement from the order, but still found that the extension was warranted.

Complaint No. 25-90215

Complainant alleges that the first district judge issued an order containing demonstrably false statements, which created the appearance of impropriety and partiality. As explained above, due to the timing of docketing entries, the first district judge’s order did contain a misstatement, which has since been corrected. A judge’s reliance on the docket, even one that contains administrative errors, is not misconduct. *See In re Complaint of Judicial Misconduct*, 527 F.3d 792 (9th Cir. Jud. Council 2008) (dismissing allegations against a judge who mistakenly stated that complainant had not filed a response, where the filing had been incorrectly docketed).

Because complainant provides no objectively verifiable evidence to support this allegation, it 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); Judicial-Conduct Rule 11(c)(1)(D).

Complaint No. 25-90270

Complainant alleges that the second district judge has exhibited a “consistent pattern of adverse rulings.” However, adverse rulings are not proof of misconduct. *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). This allegation is dismissed because it relates 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 further alleges that his underlying case was not randomly assigned to a judge. However, there is “no right to any particular procedure for the selection of the judge[,]” so long as the decision is made “in a manner free from bias or the desire to influence the outcome of the proceedings.” *See Cruz v. Abbate*, 812 F.2d 571, 574 (9th Cir. 1987). Here, the clerk assigned complainant’s case to the district judge because it was related to prior cases filed by complainant and decided by the same district judge. The district court has adopted a number of

General Orders providing for such “direct assignment” and the Ninth Circuit has acknowledged that this practice is generally “within the court’s discretion and [] in the interests of efficiency.” *See In re Marshall*, 721 F.3d 1032, 1040 (9th Cir. 2013). Accordingly, this allegation is dismissed because the conduct, “even if true, is not prejudicial to the effective and expeditious administration of the business of the courts.” *See* Judicial-Conduct Rule 11(c)(1)(A).

To the extent complainant is challenging the district judge’s acceptance of the case assignment, such allegations are dismissed as unfounded and as an impermissible challenge to the merits of the judge’s decision. *See* 28 U.S.C. § 352(b)(1)(A)(ii), (iii); Judicial-Conduct Rule 11(c)(1)(B), (D).

This is the third misconduct complaint complainant has filed against the second district judge, raising repetitive allegations that have been dismissed as unfounded and merits-related. *See In re Complaint of Judicial Misconduct*, Nos. 25-90044, 25-90082. Complainant has filed additional complaints against different judges, which have also been dismissed as unfounded and merits-related. *See In re Complaint of Judicial Misconduct*, Nos. 25-90067, 25-90068, 25-90069.

Complainant is cautioned that if he continues to file “repetitive, harassing, or frivolous complaints,” or to otherwise “abuse[] the complaint procedure,” he will be restricted from filing further complaints. *See In re Complaint of Judicial*

Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009); Judicial-Conduct
Rule 10(a).

DISMISSED.