

Dec.11 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 22-90095 and 22-90096

ORDER**MURGUIA**, Chief Judge:

Complainants, pro se litigants, have filed a complaint of judicial misconduct against a district judge and a magistrate 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 complainants 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.

Complainants allege that the magistrate judge committed misconduct by recommending the dismissal of their operative complaint, and that the district judge committed misconduct by adopting the recommendation and dismissing the complaint. All these allegations are merits related and must be dismissed on that ground. See 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including claims 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 district judge and magistrate judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Complainants also allege that the judges were biased against complainants based on their adverse rulings. Complainants do not provide any objectively verifiable evidence in support of this allegation and adverse rulings are not proof of bias. Accordingly, 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 lack sufficient evidence to raise an inference that misconduct occurred or contain allegations which are incapable of being established through investigation); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) (adverse rulings alone are not proof of misconduct); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.