

Apr.17 2024

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

No. 22-90112

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se prisoner, 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 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 harbored “personal bias and prejudice” against him based on “poverty, imprisonment, and race.” Complainant offers nothing to support this, aside from the fact that his motion for appointment of counsel was denied. However, adverse rulings are not proof of bias. See In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016). Because complainant failed to support this claim, and no support can be found in the record, it is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). It is also worth noting that complainant's motion to proceed in forma pauperis was denied because complainant had three or more prior actions or appeals dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, and complainant had not adequately alleged imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

Complainant further alleges that the district judge had a “personal interest” and “fiduciary financial interest” in the outcome of this case. Again, he offers no evidence to support this allegation, and none can be found in the record.

Accordingly, 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 district judge has a pattern of delaying
rulings in his case. A review of the record belies this allegation, which is
dismissed as unfounded. Id.

DISMISSED.