FILED

May 17 2024

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

JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF	No. 22-90119
JUDICIAL MISCONDUCT	**ORDER**

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a bankruptcy 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 the bankruptcy judge was biased and prejudiced against him. As support, he states that the judge either interrupted him or left his microphone muted during conference calls, and that her rulings contained either factual misstatements or verbatim excerpts from the bankruptcy trustee's motions. Because complainant failed to provide sufficient context or citations to the record, "complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations, and adverse rulings alone do not constitute proof of bias." In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009); see also Judicial-Conduct Rule 11(c)(1)(D). Further, challenges to the accuracy and adequacy of the judge's rulings directly relate to the merits of the judge's decisions and must be dismissed. 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 judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Complainant next alleges the bankruptcy judge's rulings regarding an arrest warrant and various legal findings in the bankruptcy case were wrong. These allegations directly relate to the merits of the bankruptcy judge's rulings and must be dismissed. Id.

Finally, complainant alleges the bankruptcy judge should have recused herself, based on a conflict of interest created by her alleged association with an attorney in the underlying case. He further alleges that the bankruptcy judge's participation in a panel discussion, hosted by a non-profit legal organization and attended by the same attorney in this case, was "inappropriate" and warranted recusal.

The allegation that the bankruptcy judge erred by declining to recuse herself is directly related to the merits of the judge's ruling and is therefore dismissed. See In re Complaint of Judicial Misconduct, 623 F.3d 1101, 1102 (9th Cir. Jud. Council 2010) (holding that the decision not to recuse is merits-related).

Complainant does not allege anything specific about the alleged relationship between the bankruptcy judge and the attorney in this case, just that he is "sure there is an outside of court link between the two of them." However, a "friendly

relationship is not sufficient reason" for the presiding judge to recuse. See Comm. on Codes of Conduct, Advisory Opinion No. 11 (2009).

Even if the judge and the attorney participated in the same panel discussion, that would not rise to the level of misconduct and complainant offers nothing to support this allegation, which is dismissed as speculative and without merit. See Judicial-Conduct Rule 11(c)(1)(B), (D).

Similarly, complainant has failed to show that participating in the panel discussion constituted misconduct. The Committee on Codes of Conduct has published guidance regarding participation in continuing legal education (CLE) programs and nonprofit entities that offer law-related educational programs. See Comm. on Codes of Conduct, Advisory Opinion No. 87 (2009) ("In summary, it is permissible for judges to engage in teaching and writing, including participating in CLE seminars, and to accept compensation for doing so, unless the subject matter primarily relates to practice before the judge's own particular court.").

Complainant has not demonstrated that the bankruptcy judge's conduct was "prejudicial to the effective and expeditious administration of the business of the courts." Judicial-Conduct Rule 4(a). 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 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).

DISMISSED.