

FILED

MAY 23 2024

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 22-90129 and 22-90130

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has 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 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 alleges the district judge, who is the chief district judge for the district, committed misconduct by failing to sign an order reassigning complainant's case to another judge. However, judges are not required to sign their orders, so this allegation is dismissed for failure to allege cognizable misconduct. Judicial-Conduct Rule 11(c)(1)(A); see also In re Complaint of Judicial Misconduct, No. 11-90097 (9th Cir. Jud. Council, July 29, 2011).

Complainant also alleges that both judges should have responded to certain filings he submitted, instead of having court staff respond. Complainant fails to demonstrate how these alleged actions constitute misconduct, so this allegation is also dismissed for failure to allege cognizable misconduct. Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.