

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 23-90011, 23-90012,
23-90013, and 23-90014

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against three district judges 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 that the first and second district judges, who were assigned to complainant's case, and the magistrate judge committed misconduct by regularly ruling against complainant. Because these allegations relate directly to the merits of the judges' decisions, these allegations 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 district judge and a magistrate judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the first and second district judges and the magistrate judge demonstrated bias against her because these judges regularly ruled against complainant. Adverse rulings are not proof of bias, and complainant provides no objectively verifiable evidence in support of these allegations, which must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re

Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013)

(“As we have frequently held, adverse rulings, standing alone, are not proof of misconduct.”); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also accuses the third district judge, the former chief district judge, of delaying her case by reassigning the case to different district judges a number of times. However, delay alone is generally not cognizable as misconduct. See Judicial-Conduct Rule 4(b)(2). Moreover, a review of the record demonstrates that the case was resolved without unnecessary delay, and that there was nothing improper about any of the reassignments. Accordingly, the 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); Judicial-Conduct Rule 11(c)(1)(D).

Next, complainant alleges that the magistrate judge improperly exercised jurisdiction. This allegation is belied by the record, which shows that all dispositive orders were entered by the district judges assigned to the case. Accordingly, this allegation is dismissed as unfounded and conclusively refuted by objective evidence. See 28 U.S.C. § 352(b)(1)(A)(iii), (B); Judicial-Conduct Rule

11(c)(1)(D); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. Jud. Council 2009).

Finally, complainant alleges that the first district judge, who was assigned to complainant's case, was improperly assigned the case. The record does not support this allegation, which is dismissed as unfounded and conclusively refuted by objective evidence. See id.

DISMISSED.