

Apr. 26 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 23-90023, 23-90024,
23-90025**ORDER****MURGUIA**, Chief Judge:

Complainant, a prisoner, has filed a complaint of judicial misconduct against three circuit judges. 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 he is being denied access to the courts and that the three circuit judges are abusing him by imposing sanctions, despite his mental disabilities. The record reflects that complainant has filed over thirty cases in the Ninth Circuit and is currently required to comply with the pre-filing order entered August 18, 2017. Because complainant's allegations challenge the enforcement of the pre-filing order, they relate directly to the merits of the judge's decision 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); Judicial-Conduct Rule 11(c)(1)(B). Moreover, because “[r]equiring a party to communicate with the court by way of a properly filed motions is not an abuse of power,” these allegations also fail to describe any misconduct and are dismissed as unfounded. See In re Complaint of Judicial Misconduct, 715 F.3d 747 (9th Cir. Jud. Council 2013); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.