

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. 23-90048, 23-90049,
23-90100, 23-90101,
23-90102, 23-90103

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.

This case arises from the dismissal of three §1983 actions filed by complainant. The district judge dismissed all three cases without prejudice because complainant failed to comply with a vexatious litigant order that was entered against him in 2020 by the district court. Complainant alleges that the district judge and the magistrate judge are “trespassers of the law,” and as a result, the orders dismissing the §1983 cases, are void. He also alleges that these judges erred by denying a motion on grounds of mootness. These allegations relate to the merits of the judges' rulings and must be dismissed on that ground. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing allegations that a district judge and magistrate judge made various improper rulings as merits-related); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that these judges suffer from a mental disability. Complainant provides no information in support of these speculative and

conclusory allegations which must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 687 F.3d 1188, (9th Cir. Jud. Council 2012) (dismissing allegation of racial bias because complainant did not provide any objectively verifiable evidence such as names of witnesses, recorded documents, or transcripts); Judicial-Conduct Rule 11(c)(1)(D).

Prior to filing these complaints, complainant had filed ten misconduct complaints against nine judges, including the judges named in the current complaints. All of those complaints involved similarly vague references to judges being “trespassers of the law” and were dismissed as either merits-related or unfounded. At that time, complainant was cautioned that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a). See In re Complaint of Judicial Misconduct, No. 21-90107+. Despite receiving that warning, complainant has now filed sixteen misconduct complaints, ten of them against the same district judge, and eight of them against the same magistrate judge, all of which have been dismissed as merits-related and unfounded. Accordingly, complainant is ordered to show cause why he should not be sanctioned by a restrictive filing order. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council

2009) (ordering complainant to show cause why he should not be sanctioned after filing sixteen misconduct complaints that were dismissed as conclusory or merits-related).

Complainant has thirty-five days from the filing of this order to file a response, which will be transmitted to the Judicial Council for its consideration.

DISMISSED and COMPLAINANT ORDERED TO SHOW CAUSE.