

**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**

No. 23-90070

**ORDER**

**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district 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 that the district judge's lack of impartiality resulted in her false conviction and that the district judge knew the witnesses at the jury trial were "imposters" and "fake" but allowed them to testify because he was biased. However, adverse rulings are not proof of misconduct, and complainant provides no objectively verifiable evidence to support these conclusory and speculative allegations, which are 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) ("complainant's vague insinuations do not provide the kind of objectively verifiable proof that we require"); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the district judge "cursed at" her and "verbally harassed" her by calling her "lewd." Any suggestion that the district judge cursed at complainant is belied by the record and is dismissed as unsupported. Id. The district judge only used the word "lewd" in describing complainant's

communication style; it was not an epitaph directed at complainant. Accordingly, this allegation is dismissed as unfounded. See In re Complaint of Judicial Misconduct, 906 F.3d 1167 (9th Cir. Jud. Council 2018) (dismissing allegation that the judge “went on a tirade” as not prejudicial and not supported); Judicial-Conduct Rule 11(c)(1)(D).

Moreover, a review of the underlying record shows that the district judge did not treat complainant in a “demonstrably egregious and hostile manner.” See Judicial-Conduct Rule 4(a)(2)(B). 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) (“complainant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**