

FILED

JUN 27 2024

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 23-90089, 23-90090

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a magistrate judge and 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 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 magistrate judge treated him in an egregious and hostile manner. As support, he alleges that the magistrate judge refused to read his filings and wrongly denied a necessary request for extension of time. These allegations are belied by the record, which reflects that the magistrate judge was familiar with the filings and was able to give specific feedback and rulings, based on her review of the filings. The record also shows that the magistrate judge granted multiple extensions of time and denied the final request after concluding that further delay would serve no legitimate purpose. Because complainant provides no objectively verifiable evidence to support these conclusory allegations, they 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).

To the extent complainant challenges the magistrate judge's recommendations or denial of additional time, these allegations 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 that claims are directly related to the merits of a decision); In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing allegations that a district judge and a magistrate judge made various improper rulings in a civil case as relating to the merits); Judicial-Conduct Rule 11(c)(1)(B).

Complainant next alleges that the district judge treated him in an egregious and hostile manner and "willfully ignored" or refused to read his filings. These allegations are similarly belied by the record, which reflects that the district judge was familiar with the history of the case and "carefully reviewed the entire file, including [complainant's] objections and exhibits." Accordingly, these allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent complainant challenges the district judge's dismissal of the case, this allegation relates directly to the merits of the judge's decision and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii).

DISMISSED.