

**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**

No. 23-90092

**ORDER**

**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a bankruptcy 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 bankruptcy judge, by ordering complainant to pay the filing fee, encouraged and required complainant to commit a felony. This allegation must be dismissed for multiple reasons. First, requiring payment of a filing fee to initiate a case is not misconduct. See Judicial-Conduct Rule 11(c)(1)(A) (dismissal is appropriate if the allegation describes conduct that “even if true, is not prejudicial to the effective and expeditious administration of the business of the courts”). Second, the allegation relates directly to the merits of the judge's rulings. 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). Third, the suggestion that the judge encouraged complainant to commit a felony is absolutely baseless. 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 next alleges that the judge made a number of incorrect rulings. 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) (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 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).

Finally, complainant alleges that the judge’s conduct during a hearing suggests bias and hostility. To the extent complainant argues that the judge’s rulings during the hearing favored opposing counsel, the allegation is dismissed because adverse rulings are not proof of bias. See In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016). A review of the record belies complainant’s allegation that the judge “abruptly cut off [complainant] and disconnected the zoom conference.” Rather, the record demonstrates that the judge listened to and explained the shortcomings of complainant’s arguments, ruled on the outstanding matters, and then, just as the judge had already concluded the

hearing and was about to disconnect the call, complainant made a statement that was not responsive to anything. Although the judge expressed mild frustration at times during the hearing, there was no “demonstrably egregious and hostile” treatment and no indication of misconduct. Accordingly, the allegation is dismissed as unsupported and baseless. 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 frivolous or lacking sufficient evidence to raise an inference that misconduct has occurred); In re Complaint of Judicial Misconduct, 906 F.3d 1167 (9th Cir. Jud. Council 2018) (dismissing allegation of hostile treatment); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**