

JUL 10 2024

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 23-90093,
23-90094, 23-90095,
23-90096

ORDER

WARDLAW, Circuit Judge¹:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against four 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

¹ This complaint was assigned to Circuit Judge Kim M. Wardlaw pursuant to 28 U.S.C. § 351(c).

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 three of the circuit judges committed misconduct by failing to grant several of complainant's requests made in connection with a habeas related application submitted to the circuit court. Complainant also alleges that the fourth circuit judge failed to comply with his request that the fourth circuit judge intervene and force the other three circuit judges to grant his requests. All these allegations relate directly to the merits of the judges' decisions, and therefore must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons a complaint may be dismissed, 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 as merits-related allegations that a district judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Complainant alleges that the decisions of all four circuit judges denied him his due process rights and his right be heard in court, which constitutes misconduct. However, adverse rulings alone do not demonstrate misconduct, and

complainant has otherwise failed to submit evidence in support of these allegations. Thus, these meritless allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii) (listing reasons a complaint may be dismissed, including that claims are lacking sufficient evidence to raise an inference that misconduct has occurred); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) (“adverse rulings, standing alone, are not proof of misconduct”); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.