

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. 23-90111, 23-90112, and
23-90113

ORDER

MURGUIA, Chief Judge:

Complainant, pro se litigants, has filed a complaint of judicial misconduct against three 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 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.

Complainants allege that all three circuit judges misunderstood the law and “lack fundamental reading comprehension skills.” These allegations are utterly unfounded and amount to an impermissible challenge to the merits of the judges' decisions. Accordingly, they are dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii), (iii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are directly related to the merits of a decision, or that claims are lacking sufficient evidence to raise an inference that misconduct has occurred); Judicial-Conduct Rule 11(c)(1)(B), (D).

Complainants further allege that the circuit judges unreasonably delayed resolution of their case for the “tactical and strategic” purpose of violating their rights. Delay alone is not cognizable misconduct, absent a showing of an “improper motive in delaying a particular decision or a habitual delay in a significant number of unrelated cases.” See Judicial-Conduct Rule 4(b)(2). Because there is absolutely no support for the conclusory and speculative assertion that the delay was tactical, the allegation is dismissed as unfounded. See 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.