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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. 24-90008, 24-90009

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against a district judge and a magistrate 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 district judge improperly dismissed his complaints, violated his constitutional rights, and improperly failed to recuse himself. Complainant also alleges that the magistrate judge improperly denied his motions for sanctions. All these allegations, including the decision to not recuse, relate to the merits of the decisions made by the judges 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 as merits-related allegations that a district judge and a magistrate judge made various improper rulings in a civil case); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the district judge committed misconduct by not ruling on one of his motions for summary judgment. A review of the record reveals that complainant has amended his motion for summary judgment many

times, and that complainant has submitted voluminous filings to the court.

Without a showing of an “improper motive in delaying a particular decision or a habitual delay in a significant number of unrelated cases,” delay alone is not cognizable misconduct. See Judicial-Conduct Rule 4(b)(2). Because there is no indication that the district judge harbored an improper motive, and because there is no evidence of improper delay, the allegation is dismissed as not cognizable and 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 frivolous or lacking sufficient evidence to raise an inference that misconduct has occurred); Judicial-Conduct Rule 11(c)(1)(D).

Complainant then alleges that the district judge 1) violated his constitutional rights by dismissing his complaints, 2) colluded with other judges in the district to issue “illegal” orders, and 3) demonstrated bias and prejudice against complainant through various rulings. Complainant also accuses the magistrate judge of demonstrating favoritism toward defendants by granting them extensions. A review of the record does not reveal any evidence supporting these allegations, and adverse rulings do not demonstrate misconduct. See 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”). Accordingly, these meritless

allegations 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); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.