

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**

No. 24-90027

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against 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 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 district judge exceeded his jurisdiction by invalidating an order issued by an administrative judge. The record reflects that the district judge rejected complainant's filing as non-compliant but did not invalidate the agency order. This allegation is dismissed because it relates directly to the merits of the judge's decision. 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 also alleges that the district judge's marriage to a district attorney created a conflict of interest that required recusal. However, "[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse." Judicial-Conduct Rule 4(b)(1). The claim includes allegations that the district judge, the current district attorney, and

the former district attorney have all exhibited prejudice and bias against complainant. Because the Judicial-Conduct Rules apply only to active federal judges, any allegations against the district attorneys must be dismissed.

See Judicial-Conduct Rule 1. Moreover, adverse rulings are not proof of misconduct, and complainant provides no objectively verifiable evidence to support this allegation, which is 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) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.