

**FILED**

AUG 28 2024

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 24-90035

**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, because the district judge handling his motion for habeas relief also presided over his criminal trial, she became a “material witness” to his defense counsel’s alleged ineffectiveness, which “conflicted with her duties as a judge” and resulted in bias against complainant in his habeas proceedings. However, adverse rulings are not proof of bias, and complainant provides no objectively verifiable evidence to support these allegations, which 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); 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).

Complainant next alleges that the district judge engaged in “ex parte judicial proceedings.” The record reflects that the district judge previously denied this allegation, explaining that she had “not had any communication with the

Government” and had not addressed the merits of complainant’s claims in his absence. This allegation is also dismissed as unfounded. See id.

Complainant next alleges that the district judge “failed to monitor and supervise cases to reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.” Although he does not provide specific examples, it appears he is alleging delay. 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 complainant has not made a showing of an improper motive, this allegation is dismissed as not cognizable.

Finally, complainant alleges that the district judge has a “pattern and ongoing practice” of not serving or providing him with copies of court orders. Although the record suggests that complainant may not have received all orders when they issued, it is clear that, once the district judge became aware of this problem, corrective action was taken, all orders were served on complainant, and extensions of time were granted to complainant to remedy the situation. Accordingly, this allegation is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**