

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. 24-90064, 24-90065,
24-90066

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, 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 the 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 three circuit judges assigned to handle complainant's appeal "condoned" and "intentionally covered up" misconduct committed by the district judge who presided over complainant's underlying case. Although these allegations appear to relate to the merits of the appellate panel's decision, in order to avoid the constraints of Judicial-Conduct Rule 11(c)(1)(B), complainant seems to suggest that the circuit judges acted with prejudicial intent. However, complainant offers no evidence to support this, beyond the adverse ruling, which is insufficient prove bias. *See In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016). Accordingly, these allegations are dismissed as unfounded and as impermissible challenges to the merits of the judges' decision. *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).

Complainant also alleges that the circuit judges “failed to consider” one of the issues raised on appeal. This allegation is belied by the record, which reflects that the panel relied on recent Supreme Court precedent to affirm the dismissal of complainant’s claim. Accordingly, this allegation is dismissed as unfounded and as an impermissible challenge to the merits of the judges’ decision. *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).

DISMISSED.