

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. 24-90088, 24-90089

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against two district 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 district judge first assigned to his civil lawsuit waited too long to recuse herself. It is worth noting that “[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). Similarly, 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).

The record reflects that the district judge did not unreasonably delay her decision, which was issued less than seven weeks after the case was initially filed. Although complainant alleges “systemic delay,” he does not support this allegation with facts. Because there is no indication of misconduct by the first district judge, the allegation 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 frivolous or 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 both district judges lack neutrality, but he provides no objectively verifiable evidence to support these allegations, which are dismissed as unfounded. *See id.*

Finally, complainant alleges that he has experienced unfair treatment, racial bias, and harassment by the district judges. The examples complainant offers, however, suggest that any adverse consequences he suffered were due to his own “minor conduct violations” and “repeated inquiries” of the court clerk, not any misconduct by the district judges. Accordingly, these allegations are also dismissed as unfounded. *See id.*

DISMISSED.