

MAR 7 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 25-90009

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against 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 the 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 magistrate judge is biased against him and has a conflict of interest resulting from the magistrate judge's prior employment and service in the military. Beyond noting this biographical data, complainant attempts to support this claim with the magistrate judge's adverse rulings. However, adverse rulings alone are not proof of bias. *See In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016). Accordingly, this allegation is dismissed as unfounded and as an impermissible challenge to the merits of the judge's decisions. *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 next alleges that it was improper for the magistrate judge to rule on complainant's motion for 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). Further, the record reflects that the magistrate judge addressed complainant’s concerns in a thoughtful and thorough order. Accordingly, this allegation is dismissed as unfounded and as an impermissible challenge to the merits of the judge’s decision. *See* 28 U.S.C. § 352(b)(1)(A)(ii), (iii); *In re Complaint of Judicial Misconduct*, 816 F.3d 1266 (9th Cir. Jud. Council 2016) (explaining that prior professional association did not give rise to the appearance of impropriety or require recusal); Judicial-Conduct Rule 11(c)(1)(B), (D).

Any allegations complainant attempts to bring against the Assistant United States Attorney or others, as well as his request for interlocutory appellate review of his pending lawsuit are beyond the scope of this complaint. *See* Judicial-Conduct Rule 1 (Judicial-Conduct Rules apply only to “covered” judges).

DISMISSED.