

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. 25-90011

ORDER

MURGUIA, Chief Judge:

Complainant, an attorney, 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 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 filed a lawsuit in the district court and experienced difficulties using the online filing system, which she attributes to interference by the district judge and his staff. Complainant alleges that the district judge instructed or permitted staff to engage in "harassment and abusive behavior." Complainant further alleges that the district judge is "in open cooperation" with the defendants to "ruin" her case, "did his best to shield" the defendants from liability, and harbors a "malicious intent to help Defendants."

To the extent complainant is alleging that the district judge conspired with the defendants or exhibited bias against her and in favor of the defendants, including that the judge instructed his staff to harass complainant because of a bias, such allegations are dismissed as unfounded. Adverse rulings are not proof of bias or conspiracy. *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). Complainant provides no objectively verifiable evidence to support these allegations. *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 alleges that the district judge’s misconduct includes setting deadlines for her responsive filings, denying her motion for reconsideration of the filing deadlines, and denying her request for in forma pauperis status. These allegations are dismissed because they relate directly to the merits of the judge’s decisions. *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 as merits-related allegations that a judge made various improper rulings in a case); Judicial-Conduct Rule 11(c)(1)(B).

Finally, complainant alleges that the district judge “ignored” and failed to rule on some of her motions. 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). Despite complainant’s belief that the district judge’s actions “serve Defendants’ interest,” she has not demonstrated an improper motive. Because there

is no indication of misconduct by the district judge, the allegation is dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant brings allegations against judicial staff, court clerks, or others, such allegations are dismissed. *See* Judicial-Conduct Rule 1 (Judicial-Conduct Rules apply only to “covered” judges).

DISMISSED.