

DEC 12 2019

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

Nos. 19-90167 and 19-90168

ORDER**GRABER**, Circuit Judge¹:

Complainant has filed a complaint of judicial misconduct against a circuit judge and 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 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,

¹This complaint was assigned to Circuit Judge Susan P. Graber pursuant to 28 U.S.C. § 351(c).

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.

To the extent complainant alleges that the district judge improperly accepted a guilty plea, that the circuit judge improperly dismissed a previous misconduct complaint, or that either judge made any incorrect rulings in any underlying proceedings, these allegations relate directly to the merits of the judges' rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

To the extent complainant requests that the judges be removed from the bench, such relief is not available in these misconduct complaint proceedings. See In re Perroton, 958 F.2d 889, 893 (9th Cir. 1992) ("Article III judges enjoy life tenure, subject only to removal by impeachment"); Judicial-Conduct Rule 11(a).

To the extent complainant raises allegations against law enforcement or attorneys, such allegations are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 1(b).

DISMISSED.