

Nov.1 2023

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

No. 22-90070

**ORDER****MURGUIA**, Chief Judge:

Complainant, a litigant, 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 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.

This misconduct complaint arises from a civil case related to a scheme to access and distribute private data and proprietary trade secrets in which complainant was a defendant. Complainant alleges that the judge refused to dismiss an accusation against complainant and that the judge lied to the Ninth Circuit when she contacted the Ninth Circuit for guidance. Complainant raised similar allegations against this district judge in a previous misconduct complaint, which were dismissed as merits-related and unfounded. See In re Complaint of Judicial Misconduct, No. 18-90017 (9th Cir. Jud. Council March 21, 2018).

Accordingly, the previous order makes further action on these charges unnecessary.

In the instant complaint, Complainant also alleges that his attorney worked with opposing counsel to force complainant to accept a mutual release. Because the Judicial-Conduct Rules apply only to active federal judges, any allegations complainant raises against attorneys are not reviewable under the rules and must therefore be dismissed. See Judicial-Conduct Rule 4.

**DISMISSED.**