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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. 22-90076

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

Complainant, a pro se prisoner, 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 complaint arises out of a civil rights case related to alleged negligent medical care at a state correctional facility. Complainant alleges that the district judge has dementia or is otherwise cognitively impaired. In support of this allegation, complainant states that he became "very aware" of the judge's cognitive impairments during a pretrial conference while "trying to listen to what he was saying." Additionally, complainant points to the judge's ruling on a trial exhibit in support of his allegation. He argues that the judge appeared confused and embarrassed before apologizing about the ruling. These allegations are undermined by the record. A close review of the trial transcript reveals nothing that would support the claim that the judge was embarrassed or apologized. Furthermore, there is nothing in the record that would otherwise indicate that the judge may have a cognitive impairment, and complainant fails to provide any objectively verifiable evidence in support of his allegations. Because there is no evidence of a "temporary or permanent impairment, physical or mental, rendering a judge unable to discharge the duties of the particular judicial office," Judicial-

Conduct Rule 4(c), the allegation of disability is dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” Judicial-Conduct Rule 11(c)(1)(D).

Complainant next alleges that the district judge engaged in improper ex parte communications. In support of this allegation, complainant points to the judge’s conduct during trial. However, a review of the trial transcript did not reveal anything that would suggest that the judge engaged in ex parte communications. Complainant did not otherwise provide any objectively verifiable evidence in support of this allegation which 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 lack sufficient evidence to raise an inference that misconduct occurred); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**