

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

JUN 10 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 25-90040

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se 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.

Complainant first alleges that the district judge improperly allowed the government on two different occasions to present evidence while complainant's attorney had a motion to withdraw as counsel pending during his criminal proceedings. Complainant also alleges that on a different occasion the district judge should not have set a firm trial date without resolving his attorney's motion to withdraw. 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).

Complainant next alleges that the district judge improperly threatened to set a firm trial date twelve days after new counsel for complainant was appointed. A review of the transcript indicates that the district judge stated that he was "about to

make it a firm trial date” while discussing with the government attorney whether the government would re-extend its plea offer after complainant’s new counsel was put into place. Therefore, this allegation 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 are lacking sufficient evidence to raise an inference that misconduct has occurred); Judicial-Conduct Rule 11(c)(1)(D).

Complainant then alleges that the district judge engaged in improper ex parte communications by asking complainant, while complainant was unrepresented, about motions that complainant needed to file. Such communications do not constitute improper ex parte communications; therefore, this allegation 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 are lacking sufficient evidence to raise an inference that misconduct has occurred); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that his pre-trial officer informed him that the district judge intended to revoke his pretrial release status, and that the district judge failed to address a letter from him alleging misconduct by the government attorney assigned to his case. These allegations do not raise any inference that any judicial misconduct occurred, and complainant does not provide any substantive

evidence supporting these allegations. Therefore, the allegations are dismissed as unfounded. *See id.*

DISMISSED.