



Office of the Clerk
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
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Cathy A. Catterson
Clerk of Court

(415) 556-9800

June 29, 2001

John Geremia and
Lynn Geremia
3105 Palo Verde
Laughlin, NV 89029

Re: Complaint of Judicial Misconduct No.01-80080

Dear Mr. and Mrs. Geremia:

Chief Judge Schroeder has issued an order in your complaint of judicial misconduct. A copy is enclosed.

A complainant or judge aggrieved by an order of the chief judge dismissing a complaint may petition the judicial council for review thereof by filing such petition in the office of the clerk of the court of appeals within 30 days of the date of the clerk's letter to the complainant transmitting the chief judge's order. 28 U.S.C. § 372(c)(10); Misconduct Rules 5 and 6(a).

Very truly yours,

Cathy A. Catterson

cac/gb

FILED

JUN 29 2001

CATHY A. CATTERSON, CLERK
U. S. COURT OF APPEALS

JUDICIAL COUNCIL
FOR THE NINTH CIRCUIT

In re Charge of)
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Judicial Misconduct)
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_____)

No.01-80080
ORDER AND
MEMORANDUM

Before: SCHROEDER, Chief Judge

A complaint of misconduct has been filed against a circuit judge and a district judge of this circuit.

Administrative consideration of such complaints is governed by the Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct or Disability (Misconduct Rules), issued pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980. 28 U.S.C. § 372(c).

Complainants are pro se litigants requesting censure and reprimand of the judges based on the following acts. They accuse the district judge of improper ex parte communications, proof being evident in the judge's use of the term "provided" instead of "offered" when referring to the defendant's discovery response. They contend that without ex parte communications, the judge would not have otherwise known about the particulars of the response. Moreover, the judges are accused of improperly

referring to complainants' motion for recusal of the district judge as a motion to disqualify. Complainants also challenge the denial of the recusal motion on grounds that the judge had presided over a criminal matter in which co-complainant was accused. Complainants also fault the circuit judge's alleged misstatement regarding their failure to attach an amended complaint to their motion to amend, and the district judge's signing of the defendant's discovery plan without complainants' presence at an allegedly improperly noticed discovery conference.

Complainants' charges of ex parte communications are conclusory and lack any supporting facts. A complaint will be dismissed if it makes charges that are wholly unsupported. 28 U.S.C. § 372(c)(3)(A)(iii); Misconduct Rule 4(c)(3). These charges are dismissed.

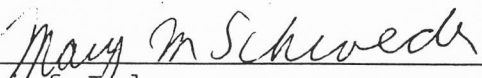
Complainants' allegations pertaining to the judges' rulings are also dismissed. A complaint will be dismissed if it is directly related to the merits of a judge's ruling or decision in the underlying case. 28 U.S.C. § 372(c)(3)(A)(ii); Misconduct Rule 4(c)(1). If complainant wants to challenge the judges' rulings, correct review procedure, "not the procedures for judicial misconduct, [is] the proper remedy." In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council

1982). The judicial council, the body that takes action under the misconduct complaint procedure, does not have the power to change a decision or ruling; "only a court can do that."

Misconduct Rule 1(f).

With respect to the judges' alleged inconsequential acts and mis-references, a complaint will be dismissed if "the claimed conduct, even if . . . true, is not 'conduct prejudicial to the effective and expeditious administration of the business of the courts'" Misconduct Rule 4(c) (2) (A); 28 U.S.C. § 372(c) (1). Review of complainants' exhibits reveals that most of the allegations were presented in the lower court. The exhibits clarify how complainants have misinterpreted or misunderstood the judges' actions.

COMPLAINT DISMISSED.



Chief Judge