



Office of the Clerk  
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
7th at Mission Street  
P.O.Box 193939  
San Francisco, California 94119-3939



Cathy A. Catterson  
Clerk of Court

April 13, 2004

(415) 556-9800

John O. Rasmussen  
1900 Congress Circle, Unit 1  
Anchorage, AK 99507

Re: Complaint of Judicial Misconduct No.04-89018

Dear Mr. Rasmussen:

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. § 352(c)(10); Misconduct Rules 5 and 6(a).

Very truly yours,

Cathy A. Catterson

CAC/gb

FILED

APR 13 2004

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

JUDICIAL COUNCIL  
FOR THE NINTH CIRCUIT

In re Charge of )  
 )  
 )  
Judicial Misconduct )  
 )  
 )  
\_\_\_\_\_ )

No. 04-89018  
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. §§ 351-364.

Complainant, a litigant who filed the complaint in pro se but was represented in the quiet title action that is the subject of this complaint, alleges that the district judge improperly granted summary judgment against him. He contends, among other things, that the judge intentionally covered up a federal tax fraud scheme, refused to turn over his evidence of same to federal prosecutors, deprived him of due process and a right to trial, and made up "phony facts" to support her decision. He further contends that the circuit judge, who authored a unanimous opinion affirming the district judge, "took over" the

appeal and irrationally agreed with each of the district judge's "lies."

This complaint relates to the judges' decisions in complainant's case. 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. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1). A challenge to a judge's rulings should be sought through the correct review procedure and not through the procedures for judicial misconduct. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982) (If complainant wants to challenge the judge's rulings, correct review procedure, "not the procedures for judicial misconduct, [is] the proper remedy.") Only a court has the power to change a decision or ruling. The judicial council, the body that takes action under the misconduct complaint procedure, does not have that authority. Even multiple or very wrong legal decisions may be addressed under the ordinary course of appellate review. Each of complainant's arguments about the district court decision was addressed on appeal. The charges relating to decisions at both the trial and intermediate appellate level are, therefore, dismissed.

Complainant failed to include any objectively verifiable proof (for example, names of witnesses, recorded documents, or transcripts) supporting his allegations of cover-up, intentional lying, or other misconduct. Conclusory charges that

are wholly unsupported, as here, will be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3). These charges, therefore, are also dismissed.

COMPLAINT DISMISSED.

  
Chief Judge