

December 22, 2025

Office of the Circuit Executive  
United States Courts for the Ninth Circuit  
James R. Browning United States Courthouse  
95 Seventh Street  
Post Office Box 193939  
San Francisco, CA 94119-3939

Re: Petition for Review – Judicial Misconduct Complaint No. 25-90114

Dear Circuit Executive:

Enclosed please find my Petition for Review pursuant to 28 U.S.C. § 352(c), Judicial-Conduct Rule 18(b), and Ninth Circuit Local Rule 18.1(b), seeking review by the Judicial Council of the Chief Judge's November 28, 2025 order dismissing my judicial misconduct complaint.

Please file the enclosed petition in the above-referenced matter and advise if any additional materials or procedural requirements are necessary.

Thank you for your attention to this matter.

Respectfully submitted,

Diego Rodriguez  
Complainant  
1317 Edgewater Drive #5077  
Orlando, FL 32804  
freedommanpress@protonmail.com  
(208) 891-7728

December 22nd, 2025

**PETITION FOR REVIEW**  
**Re: Complaint Against the Honorable David Nye**  
**No. 25-90114**

I hereby petition the judicial council for review of Chief Judge Mary H. Murguia's order, entered November 28, 2025, dismissing my complaint of judicial misconduct against Judge David Nye pursuant to 28 U.S.C. § 352(c), (providing that a complainant may petition the Judicial Council to review a Chief Judge's dismissal of a judicial misconduct complaint), Judicial-Conduct Rule 18(b), and Local Rule 18.1(b).

**Grounds for Review**

This petition is respectfully submitted to correct a dismissal that failed to properly consider the misconduct alleged, misstated the evidentiary record, and introduced prejudicial and irrelevant personal commentary that further illustrates the very type of bias and disregard for judicial process that gave rise to my original complaint.

This petition does not dispute that private correspondence existed or that opposing counsel made allegations. No finding of misconduct was ever made against me by Judge Nye, nor was any such issue noticed, heard, or adjudicated before his court. The sole issue is whether a judge may insert unsupported accusations into an official order without findings, notice, or adjudication.

**1. The Original Misconduct Allegation Remains Undisputed**

My complaint focused on a single, verifiable incident: Judge Nye issued a written order admonishing me and my co-defendant that “...*in the future, if they are ever in federal court again, they are expected to conduct themselves with civility as required...*” and stating that the Court “*takes great umbrage when parties denigrate or threaten opposing parties or counsel,*” even though I never appeared in federal court, and specifically did not appear before him in any hearing—whether in person or remotely—and no record or motion before him alleged that I had ever engaged in such conduct.

This false and baseless admonition:

- Was issued without any evidentiary basis, hearing, motion, or factual finding—a clear violation of due process and a strong indicator of judicial bias.
- Specifically grouped me with my co-defendant and admonished us both collectively without distinguishing between our conduct, despite the fact that I had no courtroom presence or conduct to admonish.
- Was subsequently cited by opposing counsel (Holland & Hart) in a March 6, 2025 Respondents' Brief to the Idaho Supreme Court as a basis to argue that I had a history of threatening behavior—thereby causing enduring reputational harm and procedural prejudice in separate legal proceedings.
- Has never been retracted or corrected, despite the objective factual record showing I had no participation in any hearing, and no conduct before Judge Nye warranting discipline.

Chief Judge Murguia's response does not refute these core facts, but instead attempts to deflect by referencing unrelated and irrelevant allegations—such as private email exchanges with opposing counsel—that had no bearing on Judge Nye's conduct, and that were never part of any evidentiary record before Judge Nye's court.

Judge Nye's decision to issue a blanket admonition under these circumstances—without factual support and without distinguishing between parties—is not merely an error in judgment. It constitutes judicial misconduct under the applicable standards and warrants corrective action by the Judicial Council.

The Judicial-Conduct Rules do not permit a judge to supply post-hoc justification for an accusation that was never adjudicated at the time it was made.

## **2. Judge Murguia Improperly Invoked Unrelated Personal Correspondence**

Chief Judge Murguia states that *“Opposing counsel submitted substantial evidence to the district court that complainant has denigrated and threatened opposing parties and opposing counsel,”* citing, among other things, my alleged use of *“homophobic slurs.”*

This justification is:

- Irrelevant to the actual misconduct alleged—Judge Nye's false statement made in his official judicial capacity about conduct that never occurred in his courtroom.
- Based on private emails or correspondence between myself and opposing counsel—not courtroom conduct and not conduct before Judge Nye.
- Highly prejudicial, as it relies on material outside the scope of the challenged conduct and substitutes extrinsic narrative for an analysis of Judge Nye's actions at the time the statement was made.
- This reasoning misapplies the judicial-conduct standard by evaluating my alleged behavior rather than evaluating whether Judge Nye's act of making an unsupported accusation in an official order constituted mistreatment of a litigant under Judicial-Conduct Rule 4(a)(2)(B).

It also fails to recognize that false factual findings by a judge in a written order—especially since no sanctions were issued against me—constitute serious judicial misconduct.

The misconduct alleged is not Judge Nye's opinion of my character, nor is it dependent on whether opposing counsel later alleged misconduct in unrelated contexts. The misconduct consists of Judge Nye's public attribution, in an official judicial order, of threatening and denigrating conduct to me without notice, without a hearing, without factual findings, and without any adjudication of such conduct before him.

Judicial-Conduct Rule 4(a)(2)(B) defines misconduct to include *“treating litigants ... in a demonstrably egregious and hostile manner.”* Publicly accusing a litigant of threatening conduct—**where no such conduct occurred** before the court and no finding was made—constitutes precisely that form of mistreatment. The absence of sanctions or

formal findings does not cure the misconduct; rather, it confirms that the accusation was unsupported.

### **3. The Dismissal Invites Future Judicial Misconduct to Go Unchecked**

If the Chief Judge's rationale is upheld, it effectively permits a judicial officer to make unsupported factual attributions about a litigant in an official order, so long as extrinsic material can later be cited to justify the statement. This approach weakens the boundary between adjudicated facts and unadjudicated narrative, and risks eroding the procedural safeguards that protect litigants from reputational harm imposed without notice or findings.

The Judicial-Conduct Rules exist to preserve public confidence in the integrity and impartiality of the judiciary by ensuring that judges do not attribute misconduct to litigants outside the confines of adjudication. Allowing such statements to stand—particularly where they have already been relied upon in subsequent proceedings—undermines that purpose and creates avoidable risk to the orderly administration of justice.

Judge Nye's false accusation has already infected other court proceedings, creating a cascading impact across jurisdictions that was entirely predictable—and avoidable.

### **Conclusion**

I respectfully ask the Judicial Council to review the order of dismissal, apply the misconduct standard correctly, and take appropriate remedial action to:

1. Acknowledge that Judge Nye's statement was factually false, unsupported by the record, and improperly issued.
2. Vacate the prior order of dismissal and issue a public or private admonition as appropriate.
3. Prevent future misuse of judicial authority to issue demonstrably false accusations without due process.

Respectfully submitted,

Diego Rodriguez  
December 22nd, 2025