

Complainant alleges that the magistrate judge violated Canon 3 of the Code of Conduct² by ordering complainant detained pending his detention hearing after having issued the warrant for complainant's arrest. He also alleges that the judge engaged in ex parte communication with the ATF agents.

The judicial complaint procedures permit review of claims of Code of Conduct violations, special treatment of friends, ex parte contact with opposing counsel, or hostile and egregious treatment of litigants. Rule 3(h)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such allegations must be supported by "sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii).

The magistrate judge's issuance of the arrest warrant does not support an inference that the judge was so biased against complainant that he could not serve as a neutral arbiter at complainant's initial appearance or order him detained pending his detention hearing. See Liteky v. United States, 510 U.S.

physical exam, and he requests an investigation into the ATF agents. This request, however, is outside the scope of the Judicial Conduct and Disability Act, which applies only to federal judges, not to other federal officials. See Rule 4, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

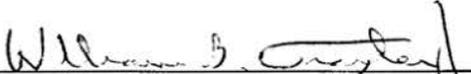
² "A judge should perform the duties of office fairly, impartially and diligently." Canon 3, Code of Conduct for United States Judges.

540, 555 (1994) (opinions formed by the judge in the course of the proceedings do not constitute a basis for recusal unless they display a deep-seated antagonism that would make fair judgment impossible).

Complainant has also failed to present evidence sufficient to raise an inference of improper ex parte communication. The magistrate judge's alleged communication to the arresting officers, directing that they take complainant to the hospital for medical clearance, addressed administrative rather than substantive matters and did not offer an advantage to either side. See Canon 3(A)(4)(b), Code of Conduct for United States Judges (permitting ex parte communication for scheduling, administrative, or emergency purposes if the communication does not address substantive matters or offer an advantage to either party).

Because complainant has failed to present evidence giving rise to an inference of misconduct, his complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge