



resulted in complainant's case being dismissed before complainant had an opportunity to respond; and

- 4) improperly interpreted complainant's claims regarding cruel and unusual punishment.

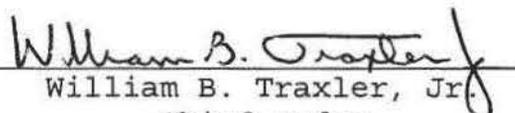
The Judicial Conduct and Disability Act excludes from its coverage allegations that are "[d]irectly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). Allegations that call into question the correctness of a judge's ruling are subject to dismissal as merits related except to the extent they allege the decision resulted from improper motive. Rule 3(h)(3), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Any claim of improper motive must be supported by sufficient evidence to raise an inference of misconduct. 28 U.S.C. § 352(b)(1)(A)(iii); In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

Complainant's allegations concerning the judge's denial of his motion for counsel, denial of a jury trial, entry of summary judgment, and interpretation of complainant's claims are directly related to the merits of the judge's decision. Although complainant alleges collusion between the judge and defense counsel to prevent complainant from responding to the defendants' motion for summary judgment, he offers no evidence of collusion. While it is true that the district judge acted on the motion for summary judgment before complainant's response period had expired, complainant offers no basis for inferring that the judge's premature consideration of the motion was the

product of collusion with defense counsel.\* Complainant's allegations of misconduct, being based solely upon the timing and substance of the judge's rulings, must be dismissed as merits related and lacking in factual support. Complainant's allegations are properly raised in his appeal, not via the judicial misconduct process.

Accordingly, this complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.

  
William B. Traxler, Jr.  
Chief Judge

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\* The judge's post-judgment consideration of complainant's response suggests that the judge became aware of his error and sought to correct it. Complainant's appeal from the judgment, and not this misconduct complaint, provides the proper vehicle for review of the judge's rulings.