

vacate sentence under 28 U.S.C. § 2255, which the district judge denied, and additional motions alleging perjury by the prosecutor, which the district judge also denied. Thereafter, complainant filed numerous post-judgment motions attacking his conviction and alleging misconduct by the prosecutor, the district judge, and defense counsel. All motions were denied.

Complainant also filed a civil rights complaint, alleging that the prosecutor, the district judge, and defense counsel violated his rights in connection with his criminal prosecution. This complaint was dismissed by the chief district judge, and the dismissal was affirmed by the court of appeals.

Complainant also filed four judicial complaints against the district judge who presided over his criminal case and post-judgment motions. The judicial complaints were dismissed because they were directly related to the merits of the district judge's rulings and failed to present any evidence of misconduct.

Complainant has now filed a judicial complaint against the chief district judge. He alleges that the chief district judge never docketed his complaint against the prosecutor for engaging in prosecutorial misconduct.*

* Complainant raises the same claim in a petition for writ of mandamus currently pending in the court of appeals, in which he alleges:

(Continued)

The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct; it does not permit review of a judge's decisions. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" cannot be raised through a judicial misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii); see Rules Governing Judicial-Conduct and Judicial-Disability Proceedings R. 3(h)(3)(A).

The Commentary on Rule 3 clarifies that judicial decisions are not limited to rulings in Article III cases and controversies; rather, "[a]ny allegation that calls into question the correctness of an official action of a judge -- without more -- is merits-related." Rules Governing Judicial-Conduct and Judicial-Disability Proceedings R. 3 cmt.

Complainant's allegations are directly related to the merits of the chief district judge's decisions and fail to present evidence of judicial misconduct.

The petitioner filed his complaint [against the prosecutor] November 04, 2013, and never received a confirmation that his complaint has been documented and assigned a docket number. Thus denying the petitioner's Fifth Amendment "Due Process" of the United States Constitution. It's the petitioner's intention to have his complaint investigated and resolved.

(Mandamus petition at 1-2).

On December 2, 2013, the chief district judge wrote to complainant as follows:

This letter is in response to your letter to me dated November 25, 2013, regarding a complaint against [the prosecutor]. Your case is assigned to [the district judge]. Any concerns or issues regarding this matter should be addressed to [the district judge]. I will not correspond further with you in this regard.

On January 3, 2014, the chief district judge again wrote to complainant, as follows:

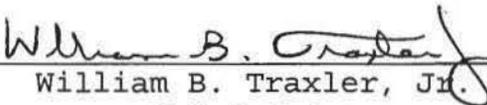
The court received your letter dated December 23, 2013, with attachment dated November 4, 2013. All matters that you raise have been properly addressed by the court. . . . The matter regarding [the prosecutor] is not properly before the undersigned, and I have previously told you that I will not correspond further with you in regard to your requested investigation of [the prosecutor] (court's letter of December 2, 2013).

Complainant's allegations of prosecutorial misconduct were adjudicated in complainant's post-judgment challenges to his criminal conviction, both in the district court and on appeal. The chief district judge's determination that complainant's allegations of prosecutorial misconduct were properly considered in his post-judgment attacks on his criminal conviction, and not through a separate disciplinary action, is a judicial determination that is not subject to challenge through a complaint of judicial misconduct. Complainant has presented no

other evidence supporting his claim of misconduct against the chief district judge.

Accordingly, this judicial 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