FILED: April 3, 2015

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matters of	*	
		No. 04-15-90054
Judicial Complaints	*	04-15-90055
Under 28 U.S.C. § 351	*	

MEMORANDUM AND ORDER

Complainant brings these judicial complaints against a federal circuit judge and a federal district pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364. The Act provides an administrative remedy for "conduct prejudicial to the effective and expeditious administration of the business of the courts" and for judicial inability to "discharge all the duties of office by reason of mental or physical disability." 28 U.S.C. § 351(a).

This is complainant's fourth complaint against the district judge who presided over this criminal case.[1] The current complaint focuses on a claim that the district judge's review of

[1] Complainant's prior judicial complaints have all been dismissed, and review has been denied by the Judicial Council. See In re Judicial Complaint, No. 04-14-90102 (dismissed Nov. 7, 2014, and review denied Dec. 8, 2014); In re Judicial Complaint, No. 04-14-90085 (dismissed Sept. 4, 2014, and review denied Sept. 29, 2014); In re Judicial Complaint, No. 04-13-90141 (dismissed Jan. 2, 2014, and review denied Jan. 30, 2014).

standby counsel's court-ordered reports on the status of subpoenas constituted ex parte communication. Contrary to complainant's allegation, the judge's review of status reports filed by standby counsel did not involve the judge in communication outside the presence of the parties or their attorneys.

Complainant's allegations against the circuit judge focus on the judge's dismissal of complainant's prior judicial complaints against the district judge. Complainant alleges the circuit judge found no evidence of misconduct on the part of the district judge in order to protect the status quo, thereby violating his duty to uphold the law.

Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" (including challenging a decision to dismiss a prior misconduct complaint) cannot be raised through a judicial misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). "The misconduct procedure is not designed as a substitute for, or supplement to, appeals or motions for reconsideration." In re Memorandum of Decision, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008). Allegations of bias, collusion, or other improper motive "must be dismissed as merits-related when the only support for the allegation of bad acts or motive is the

merits of the judge's rulings." In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

Accordingly, these judicial complaints are dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) as related to the merits of the judge's rulings and 28 U.S.C. § 352(b)(1)(A)(iii) as lacking in factual support. Complainant is advised that repetitive filing of frivolous judicial complaints will lead to imposition of restrictions against future filings. Rule 10, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

IT IS SO ORDERED.

Paul V. Niemeyer[2]
Circuit Judge

[2] Acting pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings.