

the alleged facts; (2) discrimination; (3) cover-up; (4) conspiracy; and (5) breach of trust.¹ The complaint also references a prior appeal in which complainant alleged that the circuit judge engaged in a cover-up and conspiracy to protect the district judge and magistrate judge because they were friends.

To ensure that the judicial complaint procedure is not used to collaterally attack the substance of a judge's ruling, allegations that are "[d]irectly related to the merits of a decision or procedural ruling" are excluded from coverage under the Judicial Conduct and Disability Act. 28 U.S.C. § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge - without more - is merits-related," including "a complaint challenging the correctness of a chief judge's determination to dismiss a prior misconduct complaint." Commentary on Rule 3, Rules for Judicial-Conduct and Judicial-Disability Proceedings. See In re Petition of Doe, 70 F.3d 56, 60 (8th Cir. 1995). Although judicial complaint allegations are cognizable to the extent they challenge a judge's improper motive, as opposed to the decision

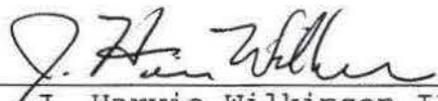
¹ Because the current judicial complaint seeks review of the circuit judge's orders dismissing complainant's prior judicial complaints, it is being treated as both a judicial complaint against the circuit judge and a petition for review of the circuit judge's orders.

itself, 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).

Complainant has failed to present any evidence to support his allegation that the circuit judge's friendship with the named judges caused him to rule against complainant. His complaint sets forth his disagreement with the circuit judge's decisions but affords no basis for inferring that the decisions resulted from friendship, discrimination, cover-up, conspiracy, or breach of trust.

Accordingly, this judicial complaint must be dismissed as a merits-related challenge to the circuit judge's prior dismissal orders and for failure to present facts supporting a claim of misconduct or disability. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.



J. Harvie Wilkinson III
Circuit Judge²

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