

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

In the Matter of	*	
Judicial Complaints	*	Nos. 04-15-90072 04-15-90073
Under 28 U.S.C. § 351	*	

MEMORANDUM AND ORDER

Complainant brings these judicial complaints against a district judge and a magistrate judge pursuant to 28 U.S.C. § 351(a), which 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."

Complainant points to three recent dismissal orders entered by the district judge as evidence that the district judge and magistrate judge are deliberately blocking his access to the courts. The first case was dismissed as a successive habeas corpus petition. The second case was dismissed because complainant did not pay the filing fee or show that he was under imminent danger of serious physical injury. The third case was dismissed pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim.

Complainant alleges in his judicial complaint that the judges engaged in a conspiracy to block his access to the

federal courts; that they did so to protect the defendant prison officials; that prison officials are depriving him of medical treatment for his pinched nerved and degenerative disk disease; that the denial of treatment is racially motivated; and that the judges' protection of the prison officials is also racially motivated. As evidence of judicial misconduct, complainant maintains that the judges have deliberately disregarded evidence of his serious, untreated medical needs in dismissing his cases.

Under 28 U.S.C. § 352(b)(1)(A)(ii), claims that are "[d]irectly related to the merits of a decision or procedural ruling" are not subject to review through a complaint of judicial misconduct or disability. To avoid the merits-related bar, a misconduct claim must contain "clear and convincing evidence of an arbitrary and intentional departure from, or willful indifference to prevailing law." In re Memorandum of Decision, 517 F.3d 558, 562 (U.S. Jud. Conf. 2008).

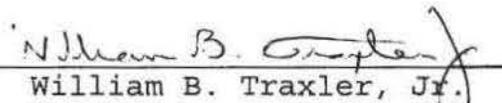
Misconduct may also be based upon a showing that the judge's rulings were motivated by racial or ethnic bias or other improper motive, but the claim must be supported by sufficient evidence to raise an inference that misconduct has occurred and cannot be based on mere speculation. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings; In re Doe, 2 F.3d 308 (8th

Cir. 1993) (judicial complaint process may not be used to pursue speculative claims).

Complainant has failed to present, and the records do not disclose, any evidence of willful indifference to prevailing law, racial bias, conspiracy, cover-up, or other misconduct. Complainant's disagreement with the judges' rulings may be raised on appeal but may not be pursued through complaints of judicial misconduct.

Accordingly, these judicial complaints are dismissed as merits-related and lacking in factual support. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.

  
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William B. Traxler, Jr.  
Chief Judge