

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

In the Matter of	*	
Judicial Complaints	*	Nos. 04-15-90094 04-15-90095 04-15-90096
Under 28 U.S.C. § 351	*	

MEMORANDUM AND ORDER

Complainant brings these judicial complaints against three federal circuit judges 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).

Complainant filed a petition for writ of mandamus in this court in 2010, in which he alleged that the Department of Justice notified him in 2009 that he had been granted pardons in 1995 and 2000. Complainant's petition for writ of mandamus asked this court to order the district court to consider the impact of the pardons. A panel of three circuit judges

determined that the relief sought by complainant was not available by way of mandamus and denied the petition.

Complainant alleges in his judicial complaint that one of the three circuit judges was disqualified because the judge's spouse had wrongfully dismissed civil actions that should have been reversed based upon the pardons. He alleges that another member of the panel was disqualified because complainant had filed a prior judicial complaint against him. Finally, he alleges that the judges were aware of the pardons but wrongfully denied relief.

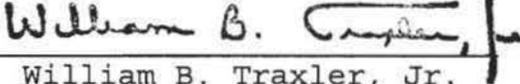
Misconduct, as defined under the Judicial Conduct and Disability Act, includes the violation of specific, mandatory standards of judicial conduct. Rule 3(h)(1)(G), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The misconduct procedure is not "designed as a substitute for, or supplement to, appeals or motions for reconsideration," In re Memorandum of Decision, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008). Misconduct allegations that are "[d]irectly related to the merits of a decision or procedural ruling" are subject to dismissal under the Act. 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant's mandamus petition sought to reopen numerous prior civil appeals on the basis of executive pardons complainant claimed to have been granted. The mandamus petition was not filed against or directed at decisions made by the

spouse of a panel member. In addition, complainant's judicial complaint against another panel member had been dismissed well over a year before complainant filed his mandamus petition. It thus provided no basis for disqualifying the judge from acting on the mandamus petition. See Advisory Opinion No. 103 (U.S. Jud. Conf. June 2009) (filing of a judicial complaint gives rise to a reasonable question about the judge's impartiality only if there is a realistic potential for the complaint to lead to adverse consequences for the judge). Finally, the judicial misconduct procedure cannot be used, as complainant seeks to do, to reopen his prior cases.\*

Accordingly, these judicial complaints are dismissed as related to the merits of the judges' decisions and as failing to present evidence of judicial misconduct. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.

  
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William B. Traxler, Jr.  
Chief Judge

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\*Although the judicial complaint lists numerous executive orders and actions that complainant believes affect his employment status and prior decisions in his cases, the judicial complaint process does not provide a means for seeking reconsideration of judicial decisions.