

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matter of a	*	
Judicial Complaint	*	No. 04-15-90101 No. 04-15-90102
Under 28 U.S.C. § 351	*	

MEMORANDUM AND ORDER

Complainant brings these judicial complaints against a federal district judge and a federal magistrate judge pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364.

Complainant alleges that the district judge and the magistrate judge are acting in conspiracy with the district court clerk to violate his civil rights and deny him access to the courts. Complainant alleges that the conspirators have refused to accept and file his complaint against the U.S. Attorney General and have refused to authorize service of his complaint against the director of the state department of corrections.

The district court docket reflects the docketing of two actions filed by complainant against the U.S. Attorney General and others - one docketed in May 2015 and one docketed in June

2015. The docket also reflects that, in complainant's action against the state department of corrections, the magistrate judge has directed compliance with procedural requirements prior to service of the complaint.

The Judicial Conduct and Disability Act provides an administrative remedy for judicial conduct that is prejudicial to the effective and expeditious administration of the business of the courts. 28 U.S.C. § 351(a). A complaint must be dismissed if it does not allege conduct prejudicial to the effective and expeditious administration of the business of the courts, if it is directly related to the merits of a decision or procedural ruling, if it is frivolous, or if it is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred. Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant's allegation that the judges are conspiring to bar his access to the courts by not docketing his cases or serving the defendants is belied by the records in the district court. Complainant's actions against the Attorney General and the director of the department of corrections have been docketed and are proceeding in the district court. Complainant's objection to the entry of procedural orders prior to service of process is a merits-related objection that cannot be pursued through a judicial complaint.

Complainant has failed to present any evidence of a conspiracy to bar his access to the courts, and the records below establish that complainant is, in fact, afforded access to the courts. Accordingly, this complaint is dismissed as directly related to the merits of the judges' rulings and as lacking sufficient evidence to raise an inference that misconduct has occurred. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii); Rule 11(c)(1)(B) & (D).

IT IS SO ORDERED.



J. Harvie Wilkinson III
Circuit Judge*

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