

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matter of a	*		
Judicial Complaint	*	Nos.	04-15-90104
Under 28 U.S.C. § 351	*		04-15-90105

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. 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 civil rights action alleging that his due process rights were violated when he was found guilty of possession of escape tools at the conclusion of prison disciplinary proceedings, a conviction that was overturned through the grievance process. Complainant's civil rights action is currently pending in the district court for consideration of complainant's objections to the magistrate judge's

recommendation that summary judgment be granted in favor of defendants.

Although complainant's judicial complaint is filed against both the magistrate judge and the district judge, his complaint allegations focus on the magistrate judge. Complainant alleges that the magistrate judge acted arbitrarily and failed to treat him in a fair or even-handed manner. Complainant maintains that the defendants falsely stated his prison records had been corrected to show that his conviction was overturned, and that the magistrate judge ignored his evidence to the contrary.

The Judicial Conduct and Disability Act provides a remedy for judicial conduct that is prejudicial to the effective and expeditious administration of the business of the courts. Excluded from coverage under the Act are allegations that are "[d]irectly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). Inserting misconduct proceedings into the adjudicative process would cause the process to be far less effective and expeditious. In re Memorandum of Decision, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008).

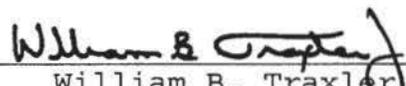
The judicial complaint procedures permit review of a claim that a judicial decision is "the result of an improper motive, e.g., a bribe, ex parte contact, racial or ethnic bias," but only to the extent of challenging the improper motive as opposed

to the decision itself. Rules for Judicial-Conduct and Judicial-Disability Proceedings R. 3(h)(3)(A). Such a charge must be supported by "sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant's allegation that the magistrate judge is biased against him is supported only by his disagreement with the magistrate judge's recommendation. Review of the district court record does not support complainant's allegation of bias and unfairness but rather demonstrates that the magistrate judge proceeded impartially in the case. Complainant's disagreement with the magistrate judge's recommendation must be raised and considered through objections filed in the district court proceedings, rather than through a judicial complaint.

These judicial complaints are therefore dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) as directly related to the merits of the judges' rulings and as failing to raise an inference of misconduct.

IT IS SO ORDERED.



William B. Traxler Jr.
Chief Judge