

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matters of	*	Nos.	04-15-90107
Judicial Complaints	*		04-15-90108
Under 28 U.S.C. § 351	*		

MEMORANDUM AND ORDER

Complainant brings these judicial complaints alleging misconduct by a district judge and a magistrate judge in complainant's civil action. The Judicial Conduct and Disability 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 pled guilty in state court to kidnapping, assault and battery with intent to kill, and two counts of armed robbery. He was sentenced to twenty-five years. Following post-conviction filings in state court, complainant filed a 28 U.S.C. § 2254 petition in the district court. The district judge accepted the recommendation of the magistrate judge and dismissed the § 2254 petition. The court of appeals denied a certificate of appealability and dismissed complainant's appeal from the district court's order. Complainant also filed a

petition for writ of mandamus under the Crime Victims' Rights Act, which was dismissed by the court of appeals.

Complainant alleges in his judicial complaint that the district judge and magistrate judge failed to treat him as a crime victim and engaged in misconduct by:

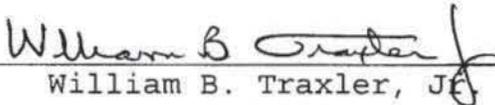
- denying complainant's procedural and due process rights;
- ignoring evidence that complainant provided that he was a crime victim;
- refusing to address his crime victim claims;
- failing to conduct a de novo review of his crime victim claims;
- violating his rights as a crime victim;
- conspiring with other judges, prosecutors, and the defendant to deprive complainant of his rights as a crime victim; and
- failing to recuse themselves.

The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct; it does not permit review of a judge's decisions. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" cannot be raised through a judicial misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). 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. Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. 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), and cannot be based simply on dissatisfaction with the judges' decisions. In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

Complainant's dissatisfaction with the judges' rulings and procedural handling of his case is not evidence of judicial misconduct. These complaints are, accordingly, dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.


William B. Traxler, Jr.
Chief Judge