

complaint. Shortly thereafter, complainant noted a voluntary dismissal.

Complainant alleges in his judicial complaint that the subject judge engaged in judicial misconduct by assigning cases to himself over which he lacked jurisdiction and then delaying the proceedings to protect a judicial colleague who, according to complainant, had previously denied complainant due process.

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." 28 U.S.C. § 351(a). 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). An allegation of delay in rendering a decision or ruling cannot be pursued as a judicial misconduct claim, "unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Allegations of improper motive must be supported by sufficient evidence to raise an inference that misconduct has occurred and cannot be based on mere speculation. 28 U.S.C. § 352(b)(1)(A)(iii); In re Doe, 2 F.3d 308 (8th Cir. 1993).

Complainant has provided no factual support for his allegation that the subject judge assigned complainant's cases to himself in order to afford special treatment to his judicial colleague. Promptly after the first case was reassigned to the subject judge, complainant appealed the reassignment order and requested a stay of the district court proceedings pending appeal. The court of appeals issued its mandate on September 14, 2015, signaling the termination of the appeal. Complainant's appeal of the reassignment order, rather than any ulterior motive on the part of the subject judge, affected the progress of complainant's case in the district court. Moreover, contrary to complainant's allegation, any judge of the district has jurisdiction over cases within the court's jurisdiction.

Complainant having failed to present factual support for his allegations of misconduct, this judicial complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.


J. Harvie Wilkinson III
Circuit Judge*

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