

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of	*	
Judicial Complaints	*	Nos. 04-15-90144
		04-15-90145
		04-15-90146
Under 28 U.S.C. § 351	*	

MEMORANDUM AND ORDER

Complainant brings these judicial complaints against a chief district judge, a district judge, and a retired district 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."

Complainant was indicted on criminal charges in 2009. Between 2009 and mid-2011, his case proceeded before one district judge. When that judge retired, his case was assigned to a second district judge.

Complainant's judicial complaint allegations focus on the retired district judge. He complains that the judge should have

granted his motion for return of his property; that the judge's statement that he suspected the government would vigorously prosecute the case created a motive for prosecutorial vindictiveness; and that the judge's reference to a defendant's belligerent conduct as a factor to be taken into consideration in ruling on a motion for new counsel created bias against him.

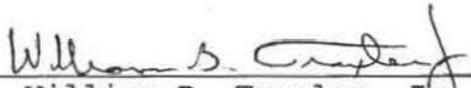
Complainant alleges that the bias generated by the first judge was passed along to the second judge, but he does not allege any specific misconduct by the second judge. The judicial complaint contains no allegations against the chief district judge.

Complainant's allegations against the retired district judge fail for two reasons. The allegations are not subject to review under the Act because they are "[d]irectly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). The claims must also be concluded on the basis that "action on the complaint is no longer necessary because of intervening events." 28 U.S.C. § 352(b)(2). See In re Complaint of Judicial Misconduct, 10 F.3d 99 (3d Cir. 1993) (retirement generally moots judicial misconduct complaint).

As to the second district judge assigned to his case and as to the chief district judge, complainant alleges no facts that would state a claim of judicial misconduct.

Accordingly, these judicial complaints are dismissed pursuant to 28 U.S.C. § 352(b)(1) & (2).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge