

FILED

DEC 30 2015
U.S. Court of Appeals
Fourth Circuit

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of	*	
Judicial Complaints	*	Nos. 04-15-90206 04-15-90207
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 28 U.S.C. § 351(a), which 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 pled guilty to threatening to assault and murder a federal official and was sentenced to 18 months of imprisonment and 3 years of supervised release. He was also ordered to pay restitution in the amount of \$91,381.08. Complainant was subsequently charged with violating the terms of his supervised release. Following a hearing, his term of supervised release was revoked, and a six-month sentence was

imposed. Complainant appealed the revocation to the court of appeals. The appeal was dismissed as moot because complainant had completed his sentence and been released.

In his judicial complaint, complainant alleges that the magistrate judge and district judge who presided over his criminal proceedings engaged in the following misconduct:

- failed to recuse themselves;
- stalked complainant and ordered others to stalk him;
- threatened complainant and had him racially profiled;
- convicted complainant based on testimony known to be false;
- sentenced complainant despite knowledge that complainant had been pardoned; and
- improperly denied complainant's request for a transcript at government expense.

The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct, including "treating litigants, attorneys, or others in a demonstrably egregious and hostile manner," and "violating other specific, mandatory standards of judicial conduct." Rule 3(h)(1)(D) & (I), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The Act does not permit review of a judge's decisions. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling," 28 U.S.C. § 352(b)(1)(A)(ii),

cannot be reviewed except to the extent they allege that a judicial decision was "the result of an improper motive, e.g., a bribe, ex parte contact, racial or ethnic bias," Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

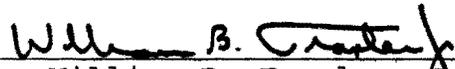
Claims of misconduct must be supported by "sufficient evidence to raise an inference that misconduct has occurred," 28 U.S.C. § 352(b)(1)(A)(iii), and cannot be based solely on the merits of the judge's rulings, In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

Complainant has presented no evidence to support his claims that the judges stalked him, threatened him, or ordered others to profile and stalk him. He has presented no evidence of false testimony or pardon or otherwise supported his claim that the judges knowingly sentenced an innocent person. His allegations that the judges should have recused themselves and that they improperly denied his request for transcript at government expense are merits-related allegations that are not subject to review through a judicial complaint. See Rule 3(h)(3)(A) ("An allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related."). The record in complainant's case contains no evidence of misconduct by either judge. Although complainant

may be dissatisfied with the outcome of his case, he cannot seek review of that decision through the judicial complaint process.

Accordingly, these complaints are dismissed as merits related and as lacking in evidence of misconduct. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge