

- 1) improperly dismissed his complaint for failure to exhaust administrative remedies after ignoring evidence that the prison had ripped up his grievances;
- 2) dismissed his case out of anger and did not follow the law;
- 3) demonstrated bias against complainant;
- 4) acted as a pro-prison activist by always siding with the government;
- 5) ruled against complainant based solely on the judge's political beliefs;
- 6) did not date his order dismissing complainant's complaint;
- 7) refused to return copies of complainant's grievances so that complainant could submit them in new actions; and
- 8) failed to inform complainant of the case numbers assigned to new actions so that complainant could amend his complaints.

The Judicial Conduct and Disability Act establishes an administrative remedy for judicial misconduct or disability. The procedure "is not designed as a substitute for, or supplement to, appeals or motions for reconsideration," In re Memorandum of Decision, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008), and allegations that are "[d]irectly related to the merits of a decision or procedural ruling" are subject to dismissal under the Act. 28 U.S.C. § 352(b)(1)(A)(ii). If, however, the complainant demonstrates "clear and convincing evidence of a judge's arbitrary and intentional departure from prevailing law based on his or her disagreement with, or willful indifference to, that law," 517 F.3d at 562, or evidence that

the judge's ruling was the result of a bribe, ex parte contact, racial bias, or other improper motive, Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings, a claim may be brought under the Act.

The complainant must present "sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii). If "the only support for the allegation of bad acts or motive is the merits of the judge's ruling," the complaint must be dismissed. In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

The record in the district court clearly demonstrates the judge's careful consideration of prevailing law in deciding complainant's case. Complainant disagrees with the judge's view of the facts and law in his case. That disagreement is not, however, evidence of the judge's willful indifference to, or arbitrary departure from, prevailing law. Complainant's allegation that the judge's adverse rulings were motivated by bias also lacks any factual support.

Complainant's allegations based on failure to date the dismissal order, failure to return grievances, and failure to advise complainant of assigned case numbers also fail to support a claim of judicial misconduct. The dismissal order was file-stamped upon entry into the case management filing system and accompanied by a judgment that referenced the date of the order. The district court record reflects that the clerk provided

complainant with double-sided copies of his grievances. The alleged delay in responding to complainant's inquiry regarding his case numbers, assuming it concerns judicial conduct, fails to state a misconduct claim because claims of delay are deemed merits related. See Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability proceedings.

Complainant's allegations of misconduct, being based solely upon the substance of the judge's rulings, must be dismissed as merits related and lacking in factual support. Accordingly, this complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge