

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of	*	
Judicial Complaints	*	Nos. 04-16-90017 04-16-90018 04-16-90019
Under 28 U.S.C. § 351	*	

MEMORANDUM AND ORDER

These judicial complaints are brought 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." 28 U.S.C. § 351(a).

The complaints name the panel of appellate judges that affirmed, for the reasons stated by the district court, the dismissal of complainant's Bivens¹ action and denial of his Fed. R. Civ. P. 59(e) motion. Complainant alleges, based on this decision, that the judges suffer from a cognitive impairment rendering them unable to recognize or address the valid issues and controlling law raised by complainant on appeal.²

"Disability" is defined for purposes of the Judicial Conduct and

¹ Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971).

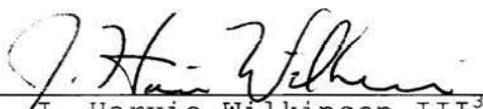
² Specifically, complainant alleges that the panel failed to recognize or address his constitutional challenges to the IADA or his arguments that his claims were not barred by the favorable termination rule, judicial immunity, or the statute of limitations.

Disability Act as "a temporary or permanent impairment, physical or mental, rendering a judge unable to discharge the duties of the particular judicial office." Contrary to complainant's allegations, there is nothing in the circuit judges' handling of complainant's appeal that suggests any inability to properly consider matters and effectively discharge all judicial responsibilities.

The Judicial Conduct and Disability Act does not permit review of claims that are "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). Judicial decisions are barred from review under the Act, as is the "giving or not giving of reasons for a particular decision." In re Memorandum of Decision, 517 F.3d 558, 561-62 (U.S. Jud. Conf. 2008).

Complainant's disagreement with the decision reached by the judges and with their failure to address his specific arguments raises issues not subject to review through a judicial complaint. Accordingly, these complaints are dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) as directly related to the merits of the judges' decisions and as lacking evidence that the judges are unable to discharge the duties of office.

IT IS SO ORDERED.


J. Harvie Wilkinson III³
Circuit Judge

³ Assigned pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings.