



phone. The order notified complainant to direct his designee to contact the property custodian, with name and number given, to make arrangements to pick up the phone within 30 days of the designation. The order stated that if complainant failed to make such a designation or if the designee failed to pick up the phone within 30 days of being designated, the phone was to be treated as abandoned. Complainant responded, designating an adult person. He further provided phone numbers and requested the property custodian to contact his designee. He finally requested that if arrangements were not made to pick up the cell phone that it be mailed to an address he provided.

Complainant alleges in his judicial complaint that the judge was without authority to order the destruction of his cell phone because the phone had been illegally seized and was not subject to forfeiture. Complainant also alleges that he informed the judge that the cell phone contained evidence that was prejudicial to the government and favorable to him and that the judge ordered the phone destroyed to conceal exculpatory evidence.

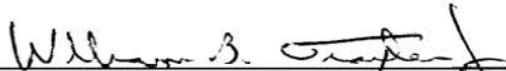
The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct; it does not permit review of a judge's decisions. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" cannot

be raised through a judicial misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). The judicial complaint procedures permit review of a claim that a judicial decision is "the result of an improper motive, e.g., a bribe, ex parte contact, racial or ethnic bias," but only to the extent of challenging the improper motive as opposed to the decision itself. Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such a charge must be supported by "sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant's challenge to the portion of the judge's order that authorized the government to treat the cell phone as abandoned property if not picked up within the time allowed is a challenge to the merits of the judge's order, not a challenge to the judge's conduct. Such a challenge may be reviewed only to the extent of reviewing a claim of improper motive. Since the judge ordered the phone returned to complainant, the record fails to support an inference that the judge was attempting to conceal exculpatory evidence. Rather, the record supports the conclusion that the judge sought to return the phone to complainant but complainant failed to comply with the terms set by the order granting his motion for return of property.

This complaint is, accordingly, dismissed pursuant to 28  
U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.

  
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William B. Traxler, Jr.  
Chief Judge