

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matters of	*	Nos. 04-16-90029
Judicial Complaints	*	04-16-90030
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 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).

Complainant filed two civil actions alleging employment discrimination in violation of the Americans with Disabilities Act. Both cases were dismissed by the district court, and the district court's dismissal orders were affirmed on appeal.

Complainant alleges in her judicial complaint that the district judge and magistrate judge engaged in judicial misconduct in her cases by:

- 1) violating her right to privacy of health information under the Health Insurance Portability and Accountability Act (HIPAA);

- 2) treating her in an egregious and hostile manner;
- 3) stonewalling her attempts to receive justice;
- 4) demonstrating bias and prejudice based on her pro se status; and
- 5) failing to protect her interests as a pro se litigant.

Complainant asks that a new district judge and a new magistrate judge be assigned to her cases.

The Judicial Conduct and Disability Act excludes from its coverage allegations that are "[d]irectly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). Allowing judicial decisions to be challenged through misconduct proceedings "would raise serious constitutional issues regarding judicial independence under Article III of the Constitution." In re Memorandum of Decision, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008).

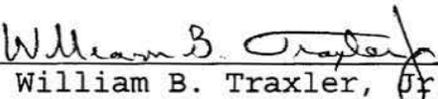
The judicial complaint procedures permit review of a claim that a judicial decision is "the result of an improper motive, e.g., a bribe, ex parte contact, racial or ethnic bias," but only to the extent of challenging the improper conduct or motive as opposed to the decision itself. Rule 3(h)(3)(A), Rules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

complaint must be dismissed as merits related. In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

Careful review of the records in complainant's cases reveals no support for her allegations that the judges violated her HIPAA rights, treated her in an egregious or hostile manner, stonewalled her attempts to achieve justice, demonstrated bias or prejudice, or failed to protect her interests as a pro se litigant. Complainant's allegations of misconduct are based solely on her disagreement with the judges' rulings and are therefore insufficient to state a claim.

Accordingly, this judicial complaint is dismissed as related to the merits of the judges' decisions and as lacking in factual support. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge