

complainant's claims. Complainant filed motions to vacate that order due to its reference to prior sanctions, to disqualify the district judge due to bias, and to continue the stay of proceedings. The district judge denied those motions.

Complainant now brings this judicial complaint alleging that the district judge's order staying the proceedings intentionally misrepresented the facts, libeled complainant, and injected a "poison pill" into complainant's efforts to obtain counsel. He maintains that the district judge was acting at the behest of a silent coalition that has engaged in criminal conduct against complainant. Complainant further alleges that he did not receive a copy of the judge's order until he requested a copy from the clerk.

The Judicial Conduct and Disability Act excludes from its coverage allegations that are "directly 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.

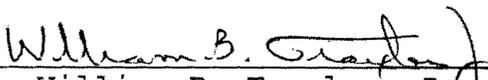
Such a claim must be supported by "sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii). "When the only support for the allegation of bad acts or motive is the merits of the judge's rulings," the complaint must be dismissed as merits related. In re Doe, 640 F.3d 869, 873 (8th Cir. 2011). Relevant language used by the judge in ruling on a case is also "presumptively merits-related and excluded from coverage under the Act, absent evidence apart from the ruling itself suggesting an improper motive." See Commentary on Rule 3, Rules for Judicial-Conduct and Judicial-Disability Proceedings, at 6.

Careful review of the complaint allegations and the record in complainant's case fails to support complainant's claim that the judge's rulings were motivated by an intention to harm complainant at the behest of a silent coalition. The judge's reference to sanction orders entered against complainant in other cases was accurate and relevant to the judge's consideration of complainant's request for a stay to obtain counsel. Complainant's assertion that the language has discouraged counsel from taking on his case does not turn the statement into misconduct. Complainant has presented no evidence of collusion or illicit motive on the part of the

judge. Complainant's allegation that he was not served with the judge's order until he requested a copy from the clerk relates to the clerk's duty to serve orders rather than misconduct on the part of the judge.

Accordingly, this judicial complaint is dismissed as related to the merits of the judge's 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