

reporting agency's motion to dismiss for failure to state a Fair Credit Reporting Act violation. The judge struck complainant's third-party complaint and denied his motion for partial summary judgment as moot because the state court foreclosure action had been voluntarily dismissed. Complainant appealed the district judge's decision to the court of appeals, which affirmed the judgment of the district court.

Six years later, complainant filed this judicial complaint, alleging that the district judge did not care about the case and that subsequent events have shown the ineffectiveness of the judicial system. Complainant alleges that governmental investigation has confirmed the validity of his claims and that the judge's acceptance of the bank's defenses suggests mental impairment on the judge's part. He maintains that the judge enabled the bank to conceal its violations and continue its transgressions by not permitting the case to proceed to trial. Complainant also maintains that the judge's statement that complainant had invested and lost the loan proceeds violated his privacy rights. Complainant seeks an adjudication of claims in his favor and payment of amounts owed.

A claim of disability under the Judicial Conduct and Disability Act requires a showing that the judge suffers from an impairment that renders him "unable to discharge the duties of the particular judicial office." Rule 3(e), Rules for Judicial-

Conduct and Judicial-Disability Proceedings. A claim of misconduct under the Act requires a showing that the judge engaged in conduct that violated mandatory standards of judicial conduct and was prejudicial to the administration of justice. Rule 3(h), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

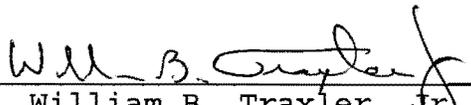
The Judicial Conduct and Disability Act excludes from its coverage allegations that are "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). To avoid the merits-related bar, a misconduct claim must contain "clear and convincing evidence of an arbitrary and intentional departure from, or willful indifference to prevailing law." In re Memorandum of Decision, 517 F.3d 558, 562 (U.S. Jud. Conf. 2008). Language used by the judge that is relevant to the ruling is "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. "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).

The record in complainant's case does not support a claim of arbitrary and intentional departure from, or willful

indifference to prevailing law. The judge's determination that the motions to dismiss set forth defenses sufficient to warrant dismissal of complainant's claims was upheld by the court of appeals. The determination was neither an intentional departure from prevailing law nor evidence of mental impairment on the part of the judge. Nor is any misconduct suggested by the judge's reference to complainant's loss of the loan proceeds, which was language related to the merits of the judge's ruling. Complainant's contention that he is entitled to relief on his claims is not one that can be pursued through a complaint of judicial misconduct.

Accordingly, this judicial complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) as directly related to the merits of the judge's rulings.

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge