

imprisonment. The conviction and sentence were affirmed on appeal. The judge denied complainant's subsequent motion to vacate sentence pursuant to 28 U.S.C. § 2255, and complainant's appeal of that denial is currently pending.

Complainant brings the following allegations in his judicial complaint:

- 1) The judge's companionable relationship with court-appointed counsel caused him to adjudicate matters in counsel's favor;
- 2) After being apprised that court-appointed counsel's exclusive line of defense was to thoroughly cross-examine prosecution witnesses, the judge should have criticized counsel for failing to obtain investigative, expert, or other services necessary for adequate representation;
- 3) The judge should have reprimanded court-appointed counsel for insinuating complainant's guilt in front of a juror; and
- 4) The judge should not have promoted the private interests of court-appointed counsel by compensating him \$18,939, in light of his inadequate representation.

The Judicial Conduct and Disability Act permits review of judicial conduct, not judicial decisions. Claims that are "directly related to the merits of a decision or procedural ruling" are barred from review under the Act. 28 U.S.C.

§ 352(b)(1)(A)(ii). Although the judicial complaint procedures permit review of claims of code of conduct violations, special treatment of friends, or hostile and egregious treatment of litigants, such allegations 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 dissatisfaction with the representation provided by court-appointed counsel, and his belief that the judge should have criticized and reprimanded court-appointed counsel, are directly related to the merits of the judge's rulings in complainant's case. Complainant alleges generally that the judge has a companionable relationship with court-appointed counsel, but he has presented no factual basis for inferring that the judge's rulings were motivated by a desire to benefit court-appointed counsel.

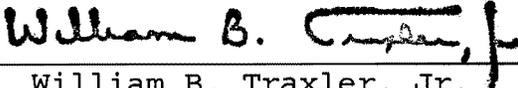
The record reflects no judicial misconduct with respect to complainant's allegation that court-appointed counsel insinuated to a juror that complainant was guilty. Court-appointed counsel placed on the record that, during a lunch break, he commented to the Assistant U.S. Attorney's legal assistant that the AUSA had done a good job. Only after making the comment did he realize that one of the jurors was about six feet away. He did not believe the juror overheard the comment. The complainant declined the judge's offer to make inquiry of the juror, and the

judge stated that he did not think any remedial action was required. (Mar. 20, 2009 Transcript, at 47-49). The judge's failure to reprimand court-appointed counsel did not constitute judicial misconduct.

Complainant's disagreement with the compensation paid to court-appointed counsel, like his disagreement with the judge's rulings in his case, presents a merits-related challenge to the judge's decisions and not a basis for finding that the judge has engaged in misconduct. See Rules for Judicial-Conduct and Judicial-Disability Proceedings, Commentary on Rule 3, at 6 (challenges to administrative decisions, such as those made on Criminal Justice Act vouchers, are merits-related challenges not subject to review through a misconduct complaint).

Accordingly, this complaint must be dismissed as a merits-related challenge to the judge's rulings and as lacking in factual support for a claim of judicial misconduct. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge