

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matters of a	*	No.	04-15-90003
Judicial Complaint	*		
Under 28 U.S.C. § 351	*		

MEMORANDUM AND ORDER

Complainant brings this judicial complaint against a federal district 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 alleges that the district judge presiding over his civil rights actions harbors personal hatred and bias against him. Complainant maintains that this antipathy brought the judge into conspiracy with defendants, influenced the judge's decision-making, and led him to block complainant's access to the courts.

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 alleges that the judge's bias is evident from his rulings and actions in complainant's cases, including:

- granting complainant's motion to waive copy charges but failing to ensure he received the requested copies;
- granting complainant's motion to amend his complaint but failing to correct the record by adding two new defendants;
- improperly construing a motion for reassignment filed with the chief judge as a motion for recusal and using

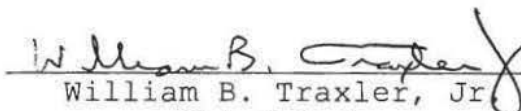
the motion as a pretext for closing all but two of complainant's cases;

- allowing the defendants to pursue an alternative defense after rejecting their first motion for summary judgment;
- granting summary judgment for defendants without affording complainant an opportunity to conduct discovery or file an appropriate response; and
- granting appointed counsel's motion to withdraw.

Review of the records in complainant's cases fails to support his claim that the judge's rulings were motivated by personal dislike or bias. The records reflect that the judge carried out his charge to review and decide the cases under the applicable law. Complainant's disagreement with those decisions, with the manner in which the clerk carried out the judge's orders, or with the limits imposed by the judge on complainant's pursuit of more than two cases at a time is not evidence that the judge was engaged in misconduct or prompted by ill motive.

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

IT IS SO ORDERED.

  
William B. Traxler, Jr.  
Chief Judge