

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of	*	Nos.	04-15-90022
Judicial Complaints	*		04-15-90023
Under 28 U.S.C. § 351	*		

MEMORANDUM AND ORDER

Complainant brings this judicial complaint against a federal circuit judge and 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).

In 2014, complainant filed a judicial complaint against a federal district judge. The complaint was dismissed by a federal circuit judge. Complainant then filed a judicial complaint against the federal circuit judge who dismissed the complainant against the district judge. That complaint was also dismissed. Petitions for review by the judicial council were filed in both cases and denied. Complainant has now filed a

combined judicial misconduct complaint naming both the federal circuit judge and the federal district judge.

Complainant brings the following allegations in his complaint against the two judges, allegations which he maintains require consultation with prosecuting authorities:

- 1) the judges conspired to fabricate forged endorsements of the circuit executive and the clerk;
- 2) the judges conspired to fabricate counterfeit documents;
- 3) the judges are involved in crimes and misconduct; and
- 4) the judges defied disqualification rules.

A complaint of misconduct under the Judicial Conduct and Disability Act is subject to dismissal if it "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred." Rule 11(c)(1)(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings. See 28 U.S.C. § 352(b)(1)(A)(iii) (requiring "sufficient evidence to raise an inference that misconduct has occurred"); In re Doe, 2 F.3d 308 (8th Cir. 1993) (rejecting conclusory allegations of conspiracy).

Complainant bases his forgery charge on the contention that the signatures of the circuit executive on the order denying judicial council review and of the clerk on the cover letter transmitting the order do not match their signatures on other documents. Use of a signature stamp or an authorized signature

is not evidence of forgery, let alone evidence that the judges conspired to fabricate forged endorsements.

Complainant claims that material omissions in the judicial council order and the clerk's letter transmitting the order indicate that the documents are counterfeit. According to complainant, the order should have recited that the judicial council considered the district judge's response, the complainant's subsequent complaint against the circuit judge, and the complainant's cover letter stating that the circuit judge was disqualified. The judicial council order did not state that the judicial council had considered the district judge's response because the district judge did not file a response, and the new complaint and cover letter were not relevant to the judicial council's consideration of complainant's petition for review in the case involving the district judge.

Complainant also points to differences in the wording of the clerk's cover letter transmitting the chief judge's order and the clerk's cover letter transmitting the judicial council order. These differences are not, as complainant contends, evidence of counterfeiting.

Complainant objects to the absence of tabulated ballots and the absence of language affirming the chief judge's order. The rules do not, however, call for inclusion of tabulated ballots, and the judicial council's denial of review was an affirmance of

the chief judge's order. See Rule 19(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings (after considering the materials before it, the judicial council may "affirm the chief judge's disposition by denying the petition").

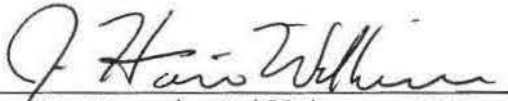
Complainant also points to the lack of a memorandum in support of the judicial council's order. However, under Rule 19(d), Rules for Judicial-Conduct and Judicial-Disability Proceedings, a memorandum is required "only if the judicial council concludes that there is a need to supplement the chief judge's explanation."

Complainant alleges that the judges defied the disqualification rules by participating in the judicial council's consideration of the petition for review. In fact, neither judge participated in the council's consideration of the petition for review.

Complainant's claims that the judges had opportunity and motive to interfere with the judicial council's consideration of his petition for review and that they should be investigated and prosecuted for their interference are based entirely on speculation, unsupported by any facts. Complainant's prior judicial complaint records disclose no irregularities in the filing, consideration, or disposition of his complaints or petitions for review.

Complainant's speculation does not give rise to an inference of misconduct. Accordingly, these judicial complaints are dismissed for failure to present facts supporting a claim of misconduct. 28 U.S.C. § 352(b)(1)(A)(iii).

IT IS SO ORDERED.


J. Harvie Wilkinson III
Circuit Judge*

* Acting pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings.