

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matters of a	*	
Judicial Complaint	*	No. 04-15-90161
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 filed a civil rights case, which is currently pending in the district court. Complainant filed a motion to recuse the district judge to whom the case is assigned because the judge dismissed his prior civil rights complaint without giving him an opportunity to respond to the motion to dismiss filed by the defendants. The motion to recuse was denied by the district judge.

Complainant also filed this judicial complaint alleging that the district judge:

- engaged in ex parte communication with counsel;
- exhibited personal bias against complainant; and
- was predisposed to find for the government.

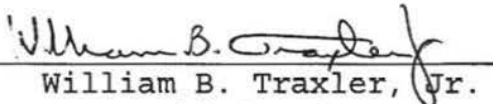
The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct; it does not permit review of a judge's decisions. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" cannot be raised through a judicial misconduct complaint. 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, or improper conduct" but only to the extent of challenging the improper motive or conduct 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 has presented no evidence of illegal bias or prejudice or of ex parte communication between the judge and counsel for the defendants. His disagreement with the judge's rulings cannot be challenged through the judicial misconduct procedure. See In re Doe, 640 F.3d 869, 873 (8th Cir. 2011)

("Although allegations of judicial bias, collusion with a party, or other improper motive are not necessarily merits-related, such allegations must be dismissed as merits-related when the only support for the allegation of bad acts or motive is the merits of the judge's rulings").

This judicial complaint is, accordingly, dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) as related to the merits of the judge's rulings and lacking in factual support.

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge