

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of	*	Nos. 04-17-90216
Judicial Complaints	*	04-17-90217
Under 28 U.S.C. § 351	*	04-17-90218

MEMORANDUM AND ORDER

Complainant brings these judicial complaints against three circuit judges pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364, which provides an administrative remedy for judicial conduct that is “prejudicial to the effective and expeditious administration of the business of the courts” and for mental or physical disability that renders a judge “unable to discharge all the duties of office.” 28 U.S.C. § 351(a).

Complainant appealed to the Fourth Circuit from district court orders dismissing her employment discrimination action for failure to meet her discovery obligations and denying her subsequent motion for reconsideration. In her informal brief on appeal, complainant argued that she was denied her fundamental rights to (1) procedural due process, (2) a fair and impartial tribunal, (3) free speech and expression, and (4) redress of grievances in a court of law. She further argued that the district court’s order was void because the district judge is mentally disabled and could not have authored the order dismissing her case. A panel of three circuit judges affirmed the orders of the district court, and complainant now alleges that they engaged in judicial misconduct by doing so.

Specifically, complainant alleges that, as part of a scheme to enable the defendant to hide evidence and to punish the complainant for exercising her First Amendment rights, the circuit judges:

- ignored her uncontroverted evidence that it was the defendant who violated the magistrate judge's discovery orders and insisted on an overbroad protective order;
- turned a blind eye to evidence that made her 99% certain the district judge was mentally impaired and did not author the order dismissing her case; and
- disregarded her evidence that a transcript of a motions hearing before the magistrate judge had been falsified.

Under 28 U.S.C. § 352(b)(1)(A)(ii), claims that are "directly related to the merits of a decision or procedural ruling" are not subject to review through a complaint of judicial misconduct. 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).

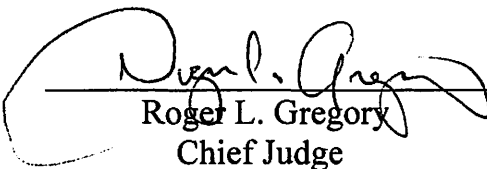
Misconduct may also be based upon a showing that the judge's rulings were motivated by racial or ethnic bias or other improper motive, but the claim must be supported by sufficient evidence to raise an inference that misconduct has occurred and cannot be based on mere speculation. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Rule 3(h)(3)(A),

Rules for Judicial-Conduct and Judicial-Disability Proceedings; *In re Doe*, 2 F.3d 308 (8th Cir. 1993) (judicial complaint process may not be used to pursue speculative claims).

Complainant has not met either standard in this case. The district court record fully supports the decision reached in complainant's case. Rejection of complainant's claims that the district judge was mentally unfit, that the records were falsified, and that she was denied her fundamental constitutional rights is evidence neither of a departure from prevailing law nor of improper motive on the part of the circuit judges. Where, as here, the "only support for the allegation of bad acts or motive is the merits of the judge's rulings," a complaint must be dismissed. *In re Doe*, 640 F.3d 869, 873 (8th Cir. 2011).

Accordingly, these judicial complaints are dismissed as merits-related and lacking in factual support. 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.


Roger L. Gregory
Chief Judge