

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

In the Matter of a

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No. 04-18-90110

Judicial Complaint

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Under 28 U.S.C. § 351

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MEMORANDUM AND ORDER

Complainant brings this judicial complaint against a circuit judge 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." 28 U.S.C. § 351(a).

Complainant filed judicial complaints against twelve federal judges. The circuit judge dismissed complainant's complaints. The Judicial Council of the Fourth Circuit subsequently denied complainant's petition for review of the dismissal.

Complainant alleges in his judicial complaint that the judge's dismissal order was rife with mischaracterizations and legal errors. According to complainant, the judge is retaliating against him for filing judicial complaints and petitions. Also, complainant contends, the judge is biased in favor of other judges, and has been swayed by influence and pressure from politicians who have ties to other judges he has complained against. Complainant charges that the judge "has allowed political and perhaps financial relationships to influence his judicial conduct or judgement." Complainant alleges that the judge exercised a "pernicious" influence on the judges of the judicial council in order

to bring about the denial of complainant's petition for review. The judge, complainant says, has deliberately disregarded complainant's due process rights, the Constitution, and the rule of law. Complainant adds that the judge is biased against him because of his identity as a light-skinned African-American.

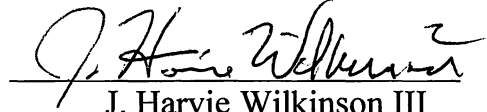
Under 28 U.S.C. § 352(b)(1)(A)(ii), claims that are "directly related to the merits of a decision or procedural ruling" are not subject to review through a complaint of judicial misconduct. To avoid the merits-related bar, a misconduct claim must contain "clear and convincing evidence of an arbitrary 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 failed to present, and the records do not disclose, any evidence of willful indifference to prevailing law, racial or other bias, or other misconduct. Complainant may not pursue his disagreement with the judge's rulings through a complaint of judicial misconduct.

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

IT IS SO ORDERED.

  
J. Harvie Wilkinson III  
Circuit Judge\*

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\* Acting in place of the Chief Judge, pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings.