

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of a

*

No. 04-19-90160

Judicial Complaint

*

Under 28 U.S.C. § 351

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MEMORANDUM AND ORDER

Complainant brings this judicial complaint against a district 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 was convicted in federal district court, in proceedings before the district judge, of conspiracy to possess with the intent to distribute narcotics, and was sentenced to a term of imprisonment. On June 17, 2019, complainant filed a motion for a sentence reduction pursuant to the First Step Act of 2018. In the months following, complainant sent several letters to the district court or to the district judge questioning the delay in ruling on the motion, and urging a speedy ruling. On November 25, 2019, complainant filed the instant judicial complaint. On December 11, 2019, the district judge denied the motion. Complainant appealed this denial, and the court of appeals dismissed the appeal for failure to prosecute.

In his judicial complaint, complainant alleges that the district judge unreasonably delayed ruling on complainant's motion. Complainant alleges that the district judge's

delay was “on purpose,” because the statute required his immediate release and the district judge, who is biased against complainant, and did not want him released.

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).

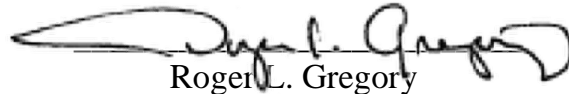
Misconduct may also be based upon a showing that the judge's rulings were motivated by bias or other improper motive, but the claim must be supported by sufficient evidence to raise an inference that misconduct has occurred and cannot be based on mere speculation. *See* 28 U.S.C. § 352(b)(1)(A)(iii); *In re Doe*, 2 F.3d 308 (8th Cir. 1993) (judicial complaint process may not be used to pursue speculative claims).

Similarly, “cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” Rule 4(b)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant has failed to present, and the records do not disclose, any evidence of improper motive, bias against complainant, deliberate delay, or other misconduct. Complainant may not pursue his concern regarding the judge’s perceived delays, or 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.

A handwritten signature in black ink, appearing to read "Roger L. Gregory", is written over a horizontal line.

Roger L. Gregory
Chief Judge