

In the United States Court of Federal Claims

(Filed: October XX, 2022)

In re: COMPLAINT OF JUDICIAL
MISCONDUCT

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Case No. 22-90336

ORDER AND MEMORANDUM

The Court received a complaint alleging that a judge of the United States Court of Federal Claims engaged in judicial misconduct.¹

The Judicial Conduct and Disability Act, codified as 28 U.S.C. §§ 351-64, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“RJCP”) allow for any individual to complain about a federal judge who the individual believes “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts” RJCP 1. “Prejudicial” conduct includes such things as use of the judge’s office to obtain special treatment for friends and relatives, acceptance of bribes, treating litigants or others in a demonstrably egregious and hostile manner, and other abuses of judicial office. *See* RJCP 4(a).

Under the RJCP, a chief judge reviews complaints of judicial misconduct that are filed and determines whether they should be dismissed or referred for further proceedings. *See* RJCP 11(a). RJCP 11(c)(1) provides that a complaint must be dismissed without further review if the presiding judge concludes that the complaint:

- (A) alleges conduct that, even if true, is not prejudicial to the effective and expeditious administration of the business of the courts and does not indicate a mental or physical disability resulting in the inability to discharge the duties of judicial office;
- (B) is directly related to the merits of a decision or procedural ruling;
- (C) is frivolous;
- (D) is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists;
- (E) is based on allegations that are incapable of being established through investigation;
- (F) has been filed in the wrong circuit under Rule 7; or
- (G) is otherwise not appropriate for consideration under the Act.

¹ The Rules for Judicial-Conduct and Judicial-Disability Proceedings (“RJCP”) require the Court to issue a public opinion that describes the misconduct alleged and the basis of its decision. *See* RJCP 24(a). However, the identity of the judge is protected if the complaint is finally dismissed under RJCP 11(c). *See* RJCP 24(a)(1). The identity of the complainant is also protected. *See* RJCP 24(a)(5). Accordingly, the Court will not identify the parties in this matter, nor describe the context in which the complainant’s grievances arose with any degree of specificity.

RJCP 11(c)(1).

Upon review of this complaint, the undersigned concludes that it is subject to dismissal under RJCP 11(c). Complainant's allegations of misconduct—that a presiding judge in his case before the Court improperly denied him the opportunity to file necessary documents, that the judge issued rulings that contravened his constitutional rights, and that the judge demonstrated a lack of impartiality—are based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists. *See* RJCP 11(c)(1)(D). Complainant's allegations are also subject to dismissal on the basis of their direct relationship to the merits of the presiding judge's decisions and procedural rulings. *See* RJCP 11(c)(1)(B). Therefore:

IT IS ORDERED that the complaint is DISMISSED because the complainant has not demonstrated that the named judge engaged in cognizable misconduct that is prejudicial to the effective and expeditious administration of the business of the courts. *See* RJCP 4(a), (b); and

IT IS FURTHER ORDERED that the complainant has the right to file a petition for review of this decision by the entire court. The deadline for filing such a petition is within forty-two (42) days after the date of this Memorandum and Order. *See* RJCP 11(g)(3), 18(a)-18(b).

ELAINE D. KAPLAN
Chief Judge