

In the United States Court of Federal Claims

(Filed: July 19, 2024)

**In re: COMPLAINT OF JUDICIAL
MISCONDUCT**

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Case No. 24-90394

MEMORANDUM AND ORDER

The Court received a complaint alleging that several judges 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 (Mar. 12, 2019) (“RJCP”) provide that any individual may file a written complaint alleging that a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts or is unable to discharge the duties of office because of mental or physical disability.” RJCP 1(a). “Prejudicial” conduct includes such actions as a judge’s use of 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 of the court—or, in the event of a chief judge’s disqualification, the most-senior active judge—reviews any complaint of judicial misconduct and disability and determines whether it 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;

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(s) 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 neither identify the parties in this matter nor describe with any specificity the context in which the complainant’s grievances arose.

- (F) has been filed in the wrong circuit under Rule 7; or
- (G) is otherwise not appropriate for consideration under the Act.

RJCP 11(c)(1).

This complaint is subject to dismissal under RJCP 11(c)(1). The complaint alleges that the subject judges, while presiding in the complainant's civil cases or otherwise ruling on motions he had filed, wrongfully denied his disqualification motions, improperly rejected his intended filings, permitted the defendant's counsel to violate applicable procedural rules and to file fabricated documents, wrongfully failed to comply with directives issued by the Court of Appeals for the Federal Circuit, and dismissed his case(s) in violation of applicable law. These allegations are subject to dismissal because they relate directly to the merits of judicial decisions and procedural rulings in the complainant's cases. See RJCP 11(c)(1)(B). The proper avenue for the complainant to seek relief for these rulings is through an appeal. In addition, the allegations, reflecting a pattern of the complainant seeking the disqualification of the judges presiding in his cases, are subject to dismissal because they are conclusory and are not supported by sufficient evidence to raise an inference that misconduct has occurred. See RJCP 11(c)(1)(D).

Accordingly, the complaint is DISMISSED because the complainant has not demonstrated that the named judges engaged in cognizable misconduct that is prejudicial to the effective and expeditious administration of the business of the courts. See RJCP 4(a).

If the complainant is dissatisfied with this conclusion, he has the right to seek review of this decision by the entire Court by filing a petition for review. Such a petition for review must be filed within 42 days of the date of this Memorandum and Order. See RJCP 11(g)(3), 18(a)-18(b).



RICHARD A. HERTLING
Judge