

FILED

In the United States Court of Federal Claims

MAY 10 2011

**U.S. COURT OF
FEDERAL CLAIMS**

In re:

COMPLAINT OF JUDICIAL MISCONDUCT

No. CL-11-900046

OPINION AND MEMORANDUM

The court received a complaint alleging that a judge and professional staff in the clerk's office of a federal district court engaged in misconduct.¹ None of the individuals named in the complaint is a judge or a member of the professional staff for the U.S. Court of Federal Claims.

Under the Rules for Judicial-Conduct and Judicial-Disability Proceedings (RJCP or Rules), professional staff (i.e., employees of a court's clerk's office) are defined as "noncovered persons" against whom such complaints may not be filed. RJCP 8(c). For this reason, the complaint with regard to those professional individuals is not cognizable, and pursuant to the Rules, the clerk of this court rejected the portions of the complaint regarding those individuals. *Id.* The clerk of this court therefore accepted the complaint "only with regard to the judge." RJCP 8(d).

The Judicial Conduct and Disability Act, codified as 28 U.S.C. §§ 351-64, and the RJCP allow for any individual to complain about a federal judge the individual believes "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts." RJCP 1. Under the Rules, the chief judge reviews complaints of judicial misconduct that are filed with the court and determines whether they should be dismissed or referred for further proceedings. RJCP 11(a). The Rules also state that complaints against federal judges must be filed with the circuit clerk in the jurisdiction in which the subject judge holds office. RJCP 7(a)(1).

Here, because the complaint is lodged against a federal judge sitting in a different court, the Chief Judge concludes that the complaint has been erroneously filed in the U.S. Court of Federal Claims, which is grounds for dismissal under RJCP 11(c)(1)(F).
Therefore:

¹ The Rules for Judicial-Conduct and Judicial-Disability Proceedings require the court to issue a public opinion which describes the misconduct alleged and the basis of its decision. RJCP 24(a). However, the identity of the judge is protected if the complaint is finally dismissed under RJCP 11(c). RJCP 24(a)(1). The identity of the complainant is also protected. 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.

IT IS ORDERED that the complaint is DISMISSED because the allegations are against a federal judge outside of the jurisdiction of the United States Court of Federal Claims, RJCP 7(a)(1), 11(c)(1)(F); 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 thirty-five (35) days of the date on the clerk of court's letter transmitting this Order. RJCP 11(g)(3), 18(b).


EMILY C. HEWITT
Chief Judge