

In the United States Court of Federal Claims

In re: COMPLAINT OF JUDICIAL MISCONDUCT

No. CL-18-90168

OPINION 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 “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.

Under the RJCP, a chief judge, or a judge authorized to act as chief judge, reviews each complaint of judicial misconduct and disability and determines whether it should be dismissed or referred for further proceedings. See RJCP 11(a), 25(f). 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

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. RJCP 24(a). However, the identity of the subject judge is protected if the complaint is dismissed under Rule 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.

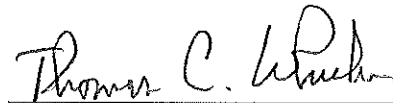
(G) is otherwise not appropriate for consideration under the Act.

RJCP 11(c)(1).

Upon review, the undersigned concludes that the complaint is subject to dismissal under RJCP 11(c)(1). Complainant's first allegation of misconduct—that the subject judge exceeded their jurisdiction—is directly related to the merits of a procedural ruling. See RJCP 11(c)(1)(B). Complainant's second allegation of misconduct—that the subject judge refused to permit reassignment to another judge—is also directly related to the merits of a procedural ruling. Id. Finally, complainant's third allegation of misconduct—that the subject judge acted to protect their personal interests—is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred. See RJCP 11(c)(1)(D). For these reasons,

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 administration of the business of the court. See RJCP 3(h)(1).

IT IS FURTHER ORDERED that the complainant has the right to file a petition for review of this decision by the entire court. Any petition for review must be filed within forty-two (42) days after the date of this Opinion and Memorandum. RJCP 11(g)(3), 18(a)-(b).



THOMAS C. WHEELER

Judge