

**In the United States Court of Federal Claims**In re: COMPLAINT OF JUDICIAL MISCONDUCT<sup>1</sup>

No. CL-15-90116

OPINION AND MEMORANDUM

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

The Judicial Conduct and Disability Act, codified at 28 U.S.C. §§ 351-64, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules or 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, improperly engaging in discussions with lawyers or parties in cases in the absence of representatives of opposing parties, and other abuses of judicial office. RJCP 3(h).

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). In the event that the chief judge is disqualified from considering a complaint under RJCP 25(f), the most senior active duty judge of the court considers the petition.

The Rules provide 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 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 which are incapable of being established through

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<sup>1</sup> The Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules or RJCP) 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.

- investigation;
- (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).

Upon review of this complaint filed against a judicial officer of this court, the chief judge has determined that the complaint does not demonstrate that the named judicial officer engaged in cognizable misconduct that is prejudicial to the administration of the business of the court. RJCP 3(h)(1).

IT IS ORDERED that the complaint is DISMISSED because the twelve separate allegations contained in the complaint are either 1) directly related to the merits of a decision or procedural ruling, RJCP 11(c)(1)(B); or 2) lack sufficient evidence to raise an inference that cognizable misconduct has occurred or that a disability exists, RJCP 11(c)(1)(D). *See also* 28 U.S.C. § 352(b)(1)(A)(ii)-(iii).

IT IS FURTHER ORDERED that 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 the chief judge's order. *See* RJCP 11(g)(3), 18(b).

  
PATRICIA E. CAMPBELL-SMITH  
Chief Judge