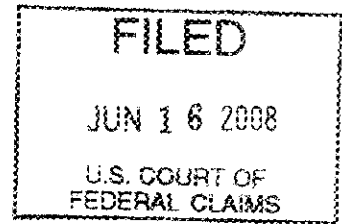


In the United States Court of Federal Claims



In re:

COMPLAINT OF JUDICIAL MISCONDUCT

No. CL-08-90005
(Filed June 2, 2008)

OPINION and MEMORANDUM

DAMICH, Chief Judge

The Court received a complaint alleging that a judge of this Court, presiding over a case in which the complainant was a litigant, mishandled one or more Orders issued by the judge and incorrectly ruled on the case.¹

The Judicial Conduct and Disability Act, codified at 28 U.S.C. §§ 351-364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (RJCP) allow for any individual to complain about a federal judge whom the individual believes “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” RJCP Rule 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 Rule 11(a). The governing statute and rules expressly provide that a complaint must be dismissed by the Chief Judge, without further review, if the Chief Judge concludes that the complaint is directly related to the merits of a decision or procedural ruling. RJCP Rule 11(c)(1)(B).

In addition, the Rules provide guidance as to what constitutes prejudicial conduct. Conduct prejudicial to the effective and expeditious administration of the business of the courts is not a precise term. It 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 Rule 3(h). It does not include making wrong decisions - even very wrong decisions

¹Title 28 U.S.C. § 372 and 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 Rule 24(a). However, the identity of the judge is protected if the complaint is finally dismissed under Rule 11(c). RJCP Rule 24(1). The identity of the complainant is also protected. RJCP Rule 25(a)(5). Accordingly, the Court will not identify the parties herein, nor describe the context in which the complainant’s grievances arose with any degree of specificity.

- in cases.


Review of the Complaint demonstrates that Complainant focuses on the merits of the decision-making process rather than misconduct on the part of the judge. The Complaint argues his side of the underlying case, citing to case law and statutes for support. However, the Complaint makes few specific references to the judge's conduct. What allegations Complainant does make are unsupported, frivolous, conclusory, and unrelated to the effective and expeditious administration of the business of the courts. For example, Complainant alleges that the judge in question placed a document in the mail that was "without Court proceedings" and "entered outside the presence of the Court Bench, that the judge "was not wearing a Robe" when mailing the document, and that the judge executed the document "without Court Jurisdiction." The Court finds that the main of the complaint is directly related to the decision-making process in the underlying case and not a basis for a finding of judicial misconduct. The remainder of the allegations are found to be frivolous.

If, after a decision is rendered, a complainant believes that a judge did not fairly consider his allegations and/or did not apply the correct law to his claims and dismisses his case on an erroneous basis, he is able to seek relief from the United States Court of Appeals for the Federal Circuit. However, he may not broaden his appellate rights through the judicial misconduct process.

In addition the Court may not consider claims against parties who are not Judges of this court. Those claims found in the Complaint are not reviewed here. RJCP Rule 8(d).

THEREFORE, IT IS ORDERED, as follows:

1. The Complaint is DISMISSED because the allegations are shown to be directly related to the merits of the decision-making process and include frivolous allegations. RJCP Rule 11(c)(1)(B) and (C).
2. 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 thirty-five (35) days from the day of the Clerk's letter transmitting this Order. RJCP Rules 18(b).


Edward J. Damich
Chief Judge