

United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NO.
F-08-90010

Before MICHEL, Chief Judge.

ORDER AND SUPPORTING MEMORANDUM

A complaint of judicial misconduct was received by the court on September 22, 2008. The complaint concerns a Florida state trial court judge.

Pursuant to Rule 4 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, a complaint under the rules "may concern the actions or capacity only of judges of the United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363." Thus, this complaint should have been returned to the complainants as not permitted by the Rules. Rule 8(c) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings ("If the clerk receives a complaint about a person not holding an office described in Rule 4, the clerk must not accept the document for filing under these Rules."). Pursuant to the statute permitting the filing of a judicial complaint in a federal court of appeals, the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364 (the Act), a complaint may be filed concerning a "judge." The Act defines "judge" to include "a circuit judge, district judge, bankruptcy judge, or magistrate judge." 28 U.S.C. § 351(d)(1). Clearly, the Rules and the Act anticipate the filing of a complaint concerning only a federal judge.

Pursuant to Rule 11(c)(1)(G) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the chief judge must dismiss a complaint if it is determined that

the complaint "is otherwise not appropriate for consideration under the Act." Because a complaint against a state judge is not appropriate under the Act or the Rules, the complaint must be dismissed pursuant to Rule 11(c)(1)(G).

Accordingly,

IT IS ORDERED THAT:

The complaint is dismissed pursuant to Rule 11(c)(1)(G) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Oct. 8, 2008

Date

/s/ Paul R. Michel

Paul R. Michel
Chief Judge

There is a right to file a petition for review of this order. Pursuant to Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, any petition for review must be received by the circuit executive within 35 days of the date of the letter transmitting this order. Any petition must be sent to:

Circuit Executive
United States Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 20439