

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

October 1, 2021

Chief Judge Diane S. Sykes

No. 07-21-90070

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint against the judge who presided over the pro se civil case he filed in 2019. He contends that the judge failed to adequately review the evidence he submitted and wrongly entered summary judgment in favor of the defendant. He also accuses the judge of bias against pro se, incarcerated litigants. Lastly, he contends that the judge and the clerk of court failed to provide copies of documents he requested.

Allegations directly related to the merits of the judge's decisions are not proper grounds for a misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." STEPHEN BREYER ET AL., IMPLEMENTATION OF THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1980: A REPORT TO THE CHIEF JUSTICE 145 (2006). To the extent that the complainant challenges the judge's consideration of the evidence, application of law to the facts, and rulings in his civil case, the allegations are merits related and the complaint must be dismissed. § 352(b)(1)(A)(ii). To the extent that the complainant suggests that the judge was biased against him and pro se prisoner litigants in general, the allegations are wholly unsupported and likewise must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(c)(1)(D).

Finally, the clerk of court is responsible for addressing document requests, not a judge, so this allegation of misconduct does not fall within the purview of the Act. *See* 28 U.S.C. § 351(a), (d) (permitting a complaint against "a judge" and defining that term to include only circuit, district, bankruptcy, and magistrate judges); *see also id.* § 352(b)(1)(A)(i). Although the complainant suggests that the judge purposefully withheld documents from

him, this allegation lacks even a modicum of factual support and therefore must be dismissed. *See id.* § 352(b)(1)(A)(iii).

For the foregoing reasons, the complaint is dismissed pursuant to § 352(b)(1)(A)(i), (ii), and (iii). The complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rule 18(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. 28 U.S.C. § 352(c); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(g)(3). A petition for review must be filed in the clerk's office of the United States Court of Appeals for the Seventh Circuit not later than 42 days of the date of this order.