

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

February 11, 2022

Chief Judge Diane S. Sykes

No. 07-22-90003

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint against a judge who entered an order terminating his case based on a stipulation of dismissal. That order was in error. The judge was not assigned to the complainant's case, and his order was meant for a different case. The judge assigned to the complainant's case vacated the erroneous order the next business day, noting that it related to a different case but was mistakenly entered on the docket of the complainant's case. The complainant contends that the brief time that the dismissal was on the docket in his case brought him undue stress, anxiety, duress, and discouragement. He also claims that the judge's action was not a mistake but rather was intentional and nefarious.

Merits-related decisions, even erroneous ones, are not cognizable misconduct. 28 U.S.C. § 252(b)(1)(A)(ii). The misconduct complaint and the district-court docket reflect that the assigned judge granted the complainant's motion to reconsider, vacated the dismissal, and reinstated the case the next business day, quickly correcting the mistake. Furthermore, to the extent that the complainant alleges that the judge acted intentionally and nefariously, he provides no particulars to substantiate this claim. Any allegation of malfeasance must be supported by sufficient facts to raise an inference that misconduct has occurred; it cannot be based on mere speculation. *Id.* § 352(b)(1)(A)(iii).

For the foregoing reasons, the complaint is dismissed pursuant to § 352(b)(1)(A)(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.