

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

February 16, 2022

Chief Judge Diane S. Sykes

Nos. 07-21-90083 & 07-22-90004

IN RE TWO COMPLAINTS AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed two misconduct complaints against the judge who presides in several cases he filed raising claims of alleged constitutional deprivations in the county jail where he is detained. These are his fourth and fifth complaints against the same judge in less than a year.

The current complaints challenge numerous decisions the judge made before and during the trial in one of the complainant's cases. The complainant also contends that in another of his cases, the judge treated him disrespectfully during a telephone conference on January 3, 2022. He alleges that the judge prevented him from making a record, became angry and hostile toward him, exhibited racial bias against him, and yelled "shut your mouth" and "that's enough."

To the extent that the complainant challenges the judge's pretrial and trial rulings, the allegations are directly related to the merits of the judge's decisions and 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). The complainant's many criticisms of the judge's rulings are all merits related and not cognizable misconduct.

The audio recording of the January 3 telephone conference conclusively establishes that the remaining allegations are false. The judge gave the complainant a sufficient opportunity to make a record and at no point instructed him to "shut [his] mouth." Instead, after giving the complainant ample time to present his arguments, the judge indicated that he had heard enough and proceeded to rule on the pending motions. Notably, the judge

denied without prejudice the defendant's motion for summary judgment, granted the complainant's motion to compel, extended the discovery deadline, and gave the parties a fair and reasonable roadmap for how to proceed in the next stage of the litigation.

After making these rulings, the judge gave the complainant additional time to lodge further objections even though the judge had mostly ruled in his favor. The audio recording reflects that the judge was polite and patient throughout the telephonic hearing and thoroughly addressed the matters pending before him. Indeed, it was the complainant who displayed hostility, at times shouting over the phone, interrupting opposing counsel, and baselessly accusing the judge of racism. Because the allegations regarding the January 3 hearing are conclusively refuted by objective evidence and likewise frivolous, they must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii), (b)(1)(B); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(c)(1)(D).

I summarily dismissed the complainant's three prior complaints against this judge on similar grounds. *See* Nos. 07-21-90012, -90017, -90029. I also warned the complainant that repetitive filing of insubstantial misconduct complaints is an abuse of the Judicial Conduct and Disability Act. Rule 10(a) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings* empowers the Judicial Council of the Seventh Circuit to prohibit, restrict, or impose conditions on an abusive complainant's use of the complaint process. These two new complaints demonstrate that the complainant did not heed that warning.

This is his final warning. If the complainant files another misconduct complaint that is summarily dismissed under any provision in § 352(b)(1)(A) or (B), I will ask the Judicial Council to require him to post a \$1,000 bond before any future complaints are reviewed. *See* RULES FOR JUD.-MISCONDUCT & JUD.-DISABILITY PROC. 10(a).

For the foregoing reasons, the complaints are dismissed pursuant to § 352(b)(1)(A)(ii), (b)(1)(A)(iii), and (b)(1)(B). 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.