

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

June 28, 2022

Chief Judge Diane S. Sykes

No. 07-22-90032

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainants filed a misconduct complaint against the judge who presided over their civil case. They challenge the judge's decision to dismiss their case with prejudice and claim that the judge's language reflects bias and a lack of sensitivity. They also contend that the defendants used derogatory, anti-Semitic terms in referring to them. Finally, they claim that the judge should have recused because of a conflict of interest.

These allegations are merits related, conclusory, wholly unsupported, and/or do not implicate the Judicial Conduct and Disability Act. First, complaints about the merits of the judge's rulings 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). Claims that the judge skewed the facts and disregarded precedent are squarely merits related.

The complainants also allege that the judge had a conflict of interest because a relative works for defense counsel's law firm. They acknowledge that defense counsel told them about the relative's employment with the firm but allege that counsel did so as a way of demonstrating that "they own the courts" and to "intimidate [them] into withdrawing their litigation as well as an acknowledgement of a guaranteed victory for defendants." The complainants did not seek the judge's recusal after learning about the relative's employment with the defense firm. Further, a review of the docket confirms that the relative did not appear in this case, and the complainants do not allege that the relative had any knowledge of the matter or was known by the judge to have an interest that could be substantially affected by the outcome of the case. And the relative is not within the

requisite degree of kinship to compel disqualification. *See* Canon 3(C) of the Code of Conduct for U.S. Judges; ADMINISTRATIVE OFFICE OF THE U.S. COURTS, GUIDE TO JUDICIARY POLICY, Vol. 2A, Ch. 2. Thus, the claim is both merits related and unsupported and must be dismissed.

The remaining allegations are likewise insufficient to support a claim of judicial misconduct. The complainants allege that *the defendants* used anti-Semitic terms in referring to them, but that claim does not relate to any action by the judge and thus is beyond the purview of the Act. 28 U.S.C. § 352(b)(1)(A)(i). The allegation that the judge's language evinces racial bias and a lack of sensitivity is wholly unsupported and must be dismissed. *Id.* § 352(b)(1)(A)(iii); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(c)(1)(D).

For the foregoing reasons, the complaint is dismissed pursuant to § 352(b)(1)(A)(i), (ii), and (iii). The complainants 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.