

United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NOS. FC-21-90018, FC-21-90019,
FC-21-90020, FC-21-90021, FC-21-90022, AND
FC-21-90023

Before PROST, *Chief Judge*.

ORDER AND SUPPORTING MEMORANDUM

Before this court is a judicial misconduct complaint identifying a district court judge of the United States District Court for the District of Montana and two judges of the United States Court of Federal Claims. The complaint also references decisions by a merits panel of this court on appeal from decisions of the Court of Federal Claims judges relating to the complainant's case before the district court judge.¹

Under Rule 11(c)(1)(F), complaints must be dismissed when filed in the wrong court. Ordinarily, a complaint against a district court judge "must be filed with the circuit clerk in the jurisdiction in which the subject judge holds office." Rule 7(a)(1).² Here, because the identified

¹ To the extent the complainant asserts wrongdoing by other individuals not covered by the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the court does not accept any complaint against those individuals.

² While there is an exception that allows for a complaint to be filed if the district judge committed misconduct while sitting by designation, *see* Rule 7(b), it is not

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APR 9 2021

PETER R. MARKSTEINER
CLERK

district court judge “holds office” in the jurisdiction of the United States Court of Appeals for the Ninth Circuit, the complaint was filed in the wrong court. As to the judges of the Court of Federal Claims, dismissal is appropriate for the same reason: a complaint concerning a judge of the Court of Federal Claims must be filed with the clerk of that court. *See* Rule 7(a)(2); *see also* Rule 3(e) (providing that “circuit” includes courts designated in 28 U.S.C. § 363, including the Court of Federal Claims).

To the extent that the complainant is asserting judicial misconduct against the judges of this court who decided the complainant’s appeals, those claims would clearly relate directly to the merits of the judges’ rulings and must therefore also be dismissed. *See* Rule 11(c)(1)(B). The complainant appears to suggest the judges’ rulings were the result of “political influence.” To the extent that he alleges anything beyond a claim relating to the merits of the prior rulings, the allegations lack sufficient evidence to raise an inference of misconduct. Thus, these charges must also be dismissed. *See* Rule 11(c)(1)(D).

Accordingly,

IT IS ORDERED THAT:

The complaints are dismissed.

April 9, 2021
Date

/s/ Sharon Prost
Sharon Prost
Chief Judge

alleged that the judge ever sat by designation at this court, let alone during the alleged misconduct.

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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 42 days of the date of 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