

United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NOS. FC-23-90001, FC-23-90002,
FC-23-90003, AND FC-23-90004

Before MOORE, *Chief Judge*.

ORDER AND SUPPORTING MEMORANDUM

Complainant, who had previously appealed from the United States Patent and Trademark Office’s rejection of her patent application, has filed complaints for judicial misconduct against three judges of this court (“Judges A, B, and C”) who served as a merits panel in one of her cases and a fourth judge of this court (“Judge D”) who represented the government in complainant’s case prior to being appointed to this court.*

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds that it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is frivolous or lacks sufficient evidence to raise an infer-

* To the extent complainant asserts wrongdoing by other individuals not covered by the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the court also does not accept any complaint against those individuals. *See* Rule 8(d).

FILED
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January 4, 2023

**PETER R. MARKSTEINER
CLERK**

ence of misconduct. *See* 28 U.S.C. § 352(b)(1)(A)(i)–(iii). Measured by those standards, I dismiss.

Complainant’s various allegations that Judges A, B, and C “affirm[ed] perjured opinions,” “erred badly in their judgment of the case,” committed “blatant violations and disregard for the Federal Rules of Appellate Procedure and the Federal Rules of Evidence,” and kept evidence from the record are easily dismissed as merits related. *See* Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. And any allegation of improper motive or discrimination by these judges must also be dismissed because complainant fails to provide any objectively verifiable proof in support. *See* Rule 11(c)(1)(D).

Complainant’s allegation that Judge D “knowingly deliver[ed]” to this court “a fraudulent case designated to affirm the Patent Office denial” of her application is directed to pre-judicial conduct. Even if such pre-judicial conduct can constitute misconduct under the Act, complainant fails to provide any evidence to raise an inference of such misconduct. *See* Rule 11(c)(1)(D). Complainant also appears to allege that Judge D worked with the other judges to prevent argument and evidence in her prior appeal, as evidenced by a Notice of Non-Compliance and a CM/ECF screenshot indicating that her filing was unable to be uploaded. These allegations are entirely frivolous. *See* Rule 11(c)(1)(C). The fact is that the court’s notice identified the reasons why complainant’s filings were not accepted and provided the opportunity to cure those deficiencies.

Accordingly,

IT IS ORDERED THAT:

The complaints are dismissed.

January 4, 2023
Date

/s/ Kimberly A. Moore
Kimberly A. Moore
Chief Judge

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