

22-90230-jm, 22-90231-jm  
September 8, 2023  
Chief Judge

**JUDICIAL COUNCIL OF THE  
SECOND CIRCUIT**

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In re

CHARGES OF JUDICIAL MISCONDUCT

Docket Nos. 22-90230-jm  
22-90231-jm

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DEBRA ANN LIVINGSTON, *Chief Judge*:

In December 2022, the Complainant filed two complaints with the Clerk’s Office of the United States Court of Appeals for the Second Circuit pursuant to the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364 (the “Act”), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (the “Rules”), each charging a district judge (“Judge 1” and “Judge 2”) of this Circuit with misconduct.

**BACKGROUND**

The Complainant filed a civil rights lawsuit in 2018 that in May 2019 was reassigned to Judge 1. Between July 2019 and May 2021, Judge 1 denied several of the Complainant’s requests for appointment of counsel, each time without

prejudice to the Complainant renewing the motion when the case was closer to trial, and without prejudice to the Complainant retaining counsel. Judge 1 presided over the matter until October 2022. In that month, she temporarily enjoined the Complainant from entering the district court clerk's office after finding that he had been acting aggressively and threatening clerk's office employees, and ordered him to show cause in writing why the injunction should not be permanent. Judge 1 thereafter recused and the matter was reassigned to Judge 2, who made the injunction permanent and required the Complainant to use the district court's drop box for all further filings. Judge 2 then recused in December 2022, and the matter was reassigned and is now pending before another district judge.

Misconduct complaint 22-90230, against Judge 1, alleges that Judge 1 "will not allow me to get a lawyer. They barred me and forc[ed] me to do my own cases . . . . They are blocking me from getting an attorney blocking my due process & violating my rights." This complaint also alleges that Judge 1 is "holding my SSI paperwork when she is not even an SSI attorney. She is holding up all my paperwork. She is covering up all the corruption." The complaint does not elaborate further on these allegations. It includes about 40 pages of

attachments consisting of court filings and letters the Complainant has written about the allegations in his underlying civil rights case, but they are of no obvious relevance to the allegations in the complaint.

Misconduct complaint 22-90231, against Judge 2, also complains of the denial of appointment of counsel. It states: “will not allow me to get a lawyer. They barred me and forcing me to do my own cases.” It further alleges that Judge 2 “violated his oath” by “not acting fair” and “committing treason.” The complaint also appears to complain about the injunction barring him from entering the clerk’s office, as it states as follows: “Barred [the Complainant] over the court with no evidence to protect his employees and told [the Complainant] that he is not allowed back in court. [He is] violating [the Complainant’s] rights.”

## DISCUSSION

The complaints are dismissed.

To the extent the Complainant challenges the orders denying his requests for appointment of counsel and enjoining him from entering the district court clerk’s office, these are claims that the Judges got it wrong, not that they engaged in misconduct. Accordingly, the claims are dismissed as “directly related to the

merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); Rule 4(b)(1) (“Cognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.”); 11(c)(1)(B). Purely merits-related allegations are excluded from the Act to “preserve[] the independence of judges in the exercise of judicial authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling.” Rule 4 cmt. If the Complainant wishes to challenge the Judges’ decisions, he may do so, to the extent the law allows, only through normal appellate procedures.

The other allegations—i.e., that Judge 1 is holding unspecified “SSI paperwork” and covering up corruption, and that Judge 2 is committing treason—are dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(D). The Complainant provides no evidence to support these claims. *See In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability*, 591 F.3d 638, 646 (U.S. Jud. Conf. Oct. 26, 2009) (“Rule 6(b) makes clear that the complaint must be more than a suggestion to a Chief Judge that, if [s]he opens an investigation and the investigating body looks hard enough in a particular direction, [s]he might

uncover misconduct. It must contain a specific allegation of misconduct supported by sufficient factual detail to render the allegation credible”).

The Clerk is directed to transmit copies of this order to the Complainant and to the Judges.