



UNITED STATES TAX COURT
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY,

No. TC-21-90004

ORDER

The Court received a complaint alleging that a judge of the United States Tax Court engaged in judicial misconduct. Upon due consideration, it is

ORDERED that the complaint is dismissed for the reasons stated in the attached Memorandum.

The Clerk of the Court is directed to send copies of this Order to the complainant, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 11(g)(2), Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (USTC Rules for Judicial Conduct).¹

The complainant and the subject judge have the right to petition the Judicial Conduct and Disability Council to review this Order. USTC Rules for Judicial Conduct, Rule 11(g)(3). The deadline for filing such a petition is within forty-two (42) days after the date of the Chief Judge's Order, and the timely mailing/timely filing provision of 26 U.S.C. sec. 7502 does not apply. USTC Rules for Judicial Conduct, Rule 18(a), (b).

Kathleen Kerrigan

Kathleen Kerrigan
Acting Chief Judge

¹ The USTC Rules for Judicial Conduct require the Chief Judge's decision to be publicly available, but the identities of the judge and the complainant are protected if the complaint is finally dismissed under Rule 11(c). USTC Rules for Judicial Conduct, Rule 24. Accordingly, the Court will not identify the parties in this matter, nor describe the context in which the complainant's grievances arose with any degree of specificity.

MEMORANDUM

KERRIGAN, Acting Chief Judge: Complainant, an individual representing himself in this proceeding, who is not a party nor a practitioner in an underlying United States Tax Court case, has filed a misconduct complaint against a judge of this Court. For the following reasons, the complaint will be dismissed.

Complainant disagrees with the judge's determination of Complainant's prior judicial conduct complaint and alleges that the judge was biased in its resolution. Complainant, however, alleges no facts supporting a finding of bias.

Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse. Rule (3)(i)(3)(A), USTC Rules for Judicial Conduct. Because this complaint challenges the correctness of the decision to dismiss a prior judicial misconduct complaint, it is merits-related and does not demonstrate misconduct. Cognizable misconduct does not include allegations that are directly related to the merits of a decision or procedural ruling. Rule 3(i)(3)(A), USTC Rules for Judicial Conduct. Further, dismissal is appropriate because the complaint lacks sufficient factual allegations of bias. Rule 11(c)(1)(D), USTC Rules for Judicial Conduct; see *Rote v. Judicial Conduct and Disability Committee*, 2021 WL 6197041, at 2* (D. Or. Dec. 30, 2021).

It is appropriate to dismiss a misconduct complaint on concluding that the complaint is directly related to the merits of a decision and is based on allegations

lacking sufficient evidence to raise an inference that misconduct has occurred. Rules 11(c)(1)(B) and (D), USTC Rules for Judicial Conduct.

Complainant is advised that a complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints. Rule 10 (a), USTC Rules for Judicial Conduct.

The complaint is dismissed.