

United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NOS.
F-09-90011, F-09-90012, F-09-90013

Before MICHEL, Chief Judge.

ORDER AND SUPPORTING MEMORANDUM

A document including three complaints of judicial misconduct was received by the court on August 18, 2009. The complaints concern three judges of this court.

In complainant's case before the United States Court of Appeals for Veterans Claims, that court affirmed the denial of an earlier effective date for a claim for service connection. The complainant appealed to this court. A panel of three judges dismissed the appeal for lack of jurisdiction, determining it involved only factual determinations which are outside of this court's jurisdiction. See 38 U.S.C. § 7292. The complaints are against the panel members because they issued the decision.

The complainant asserts, inter alia, that the judge of the Court of Appeals for Veterans Claims excluded and concealed evidence.* The complainant also asserts, inter alia, that the judges of this court changed "the wording of veteran's issues," that the judges' decisions should protect veterans, that the claimant was not provided due process, and that procedures were otherwise not constitutional.

* Pursuant to Rule 4 of the Rules for Judicial-Conduct and Judicial-Disability, "[a] complaint under these Rules may concern the actions or capacity only of judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363." Because judges of the Court of Appeals for Veterans Claims are not considered covered judges pursuant to that rule, this court rejected the complainant's complaint against the judge of that court by letter dated August 21, 2009. We address herein only the complaints against judges of this court.

Concerning the complaints against the three judges of this court, a complaint must be dismissed if the complaint is directed to the merits of a decision or procedural rulings. Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complaints against the three judges of this court are entirely directed to the merits of the decision and rulings and thus must be dismissed.

Accordingly,

IT IS ORDERED THAT:

The complaints are dismissed pursuant to Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Oct. 6, 2009

Date

/s/ Paul R. Michel

Paul R. Michel
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 35 days of the date of the letter transmitting 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