

# United States Court of Appeals for the Federal Circuit

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IN RE COMPLAINT NOS. FC-19-90003, FC-19-90004,  
AND FC-19-90005

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Before PROST, *Chief Judge*.

## ORDER AND SUPPORTING MEMORANDUM

The complainant has filed judicial misconduct complaints concerning three judges of this court. To the extent the complainant also asserts wrongdoing by other individuals not covered by the Rules for Judicial-Conduct and Judicial-Disability Proceedings, we do not accept the complaint against those individuals. Rule 8(d) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (providing that the court may only accept a complaint against a person covered by the rules).

An administrative judge of the Merit Systems Protection Board issued a decision denying the complainant relief under the Whistleblower Protection Act. The complainant then sought this court's review. A panel of three judges of this court affirmed the decision. The complaints now before this court are against the three judges who served on that panel.

The complainant alleges, *inter alia*, that the judges "did everything in their power to cover[] up" the administrative judge's "distor[tion of] the official record in [the complainant's] case." That allegation, however, concerns the merits of the judges' rulings in the complainant's case. Because the rules preclude review of the merits of decisions within the context of a misconduct complaint, that

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PETER R. MARKSTEINER  
CLERK

portion of the complaints must be dismissed. *See* Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (a complaint of judicial misconduct must be dismissed if the complaint “is directly related to the merits of a decision or procedural ruling”).

To the extent that the complainant suggests other misconduct, those allegations “lack[] sufficient evidence to raise an inference that misconduct has occurred.” *See* Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Therefore, dismissal is appropriate.

Accordingly,

IT IS ORDERED THAT:

The complaints are dismissed.

June 28, 2019  
Date

/s/ Sharon Prost  
Sharon Prost  
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