

United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NO. FC-20-90001

Before NEWMAN, *Circuit Judge*, the most senior qualified active judge, Rule 25(f).

ORDER AND SUPPORTING MEMORANDUM

The complainant has filed a judicial misconduct complaint concerning a judge of this court.

Earlier this year, a panel of three judges of this court, not including the subject judge, affirmed the decision of the United States Court of Federal Claims denying the complainant compensation under the National Childhood Vaccine Injury Act of 1986. The complainant now appears to assert that the subject judge failed to properly monitor and supervise that case.

Even read in a light most favorable to the complainant, the allegations in the complaint appear, at most, to be challenging the merits of the rulings in the complainant's case and must therefore 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").

The complainant also appears to allege misconduct by the Clerk of the Court. However, the court may not accept a complaint against the Clerk of Court because he is not covered under the Rules for Judicial-Conduct and Judicial-Disability Proceedings. See Rule 8(d) (providing

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PETER R. MARKSTEINER
CLERK

that the court may only accept a complaint against a person covered by the rules).*

Accordingly,

IT IS ORDERED THAT:

The complaint is dismissed.

November 27, 2019
Date

/s/ Pauline Newman
Pauline Newman
Circuit 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

* The complainant, for instance, asserts error in the Clerk signing orders issued in the case as opposed to the judges. However, the Clerk of Court is authorized to sign a document "For the Court" when directed by a judge or the court. See Fed. Cir. R. 45(c). Here, the orders identified by the complainant were either decided by a panel of judges or by the court en banc. The Clerk properly signed those orders at the direction of the court.