

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
United States Courthouse  
40 Foley Square - Room 1702  
New York, N.Y. 10007

Roseann B. MacKechnie  
Clerk

December 6, 2000

Ms. Stella Chertkova  
37 Farms Village Road  
Simsbury, Connecticut 06070

RE: Judicial Conduct Complaint  
**No. 00-8547**

Dear Ms. Chertkova:

Enclosed please find a copy of the order dismissing your judicial conduct complaint. Pursuant to Rule 5 of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 USC § 372(c), you have the right to petition the judicial council for review of this decision. A petition for review must be received in the Clerk's Office within 30 days of the date of this letter (\*) to be considered timely. Please note it is not necessary to enclose a copy of the original complaint.

Sincerely,

Roseann B. MacKechnie, Clerk

By:

  
Bernard F. Madsen Jr.  
Deputy Clerk

**(\*) ANY PETITION FOR REVIEW SUBMITTED MUST BE RECEIVED  
NO LATER THEN FRIDAY, JANUARY 5<sup>th</sup>, 2001.**

Enclosure

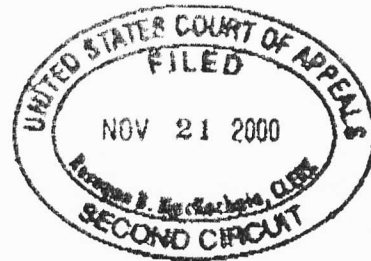
JUDICIAL COUNCIL OF THE  
SECOND CIRCUIT

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In re  
CHARGE OF JUDICIAL MISCONDUCT

No. 00-8547

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JOHN M. WALKER, JR., Chief Judge:

On July 31, 2000, the Complainant filed a complaint with the Clerk's Office for the U.S. Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 372(c) and the Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers ("the Local Rules"), charging a district court judge of this Circuit ("the Judge") with misconduct.

Background and Allegations:

The Complainant alleges that she was the plaintiff in two district court actions over which the Judge presided. According to Complainant, the Judge has "demonstrated in many different ways that he is not capable of performing the duties required of a

United States judge." Complainant states that the Judge's impaired judgment may be the result of a mental disability or misconduct or both. Specifically, Complainant alleges that (a) the Judge did not read her statement of facts in opposition to a summary judgment motion, may not have read any other documents submitted by her, and apparently did not read a Court of Appeals opinion which reversed a grant of summary judgment against her; and (b) the Judge's judgment and memory are impaired since he gave a jury in one of her cases erroneous information that prejudiced her, his summary judgment decisions included facts that were not supported by any document in the record, he did not remember basics of law and made improper legal rulings during trial, he did not understand the meaning of the summary judgment standard, and he did not properly investigate the issues before ruling.

Disposition:

The complaint must be dismissed.

The complaint primarily challenges the Judge's decisions and rulings in the two actions. However, direct challenges to the merits of a decision or ruling may not be brought under § 372. See 28 U.S.C. § 372(c)(3)(A)(ii); Local Rule 4(c)(2); see also Local Rule 1(b) (section 372 does not cover "wrong decisions -- even very

wrong decisions -- in the course of hearings, trials, or appeals."). Such challenges must be pursued through normal appellate procedures. See Local Rule 1(e) ("The complaint procedure is not intended to provide a means of obtaining review of a judge's or magistrate judge's decision or ruling in a case. The judicial council of the circuit . . . does not have the power to change a decision or ruling. Only a court can do that.").

To the extent that the Complainant is alleging that the Judge is mentally disabled or, in the alternative, has consciously engaged in misconduct, the Complainant's allegations are insufficient to support such a conclusion. Allegations of misconduct or disability must be supported by specific allegations of fact; the complaint must make clear what conduct the judge engaged in and why that conduct was improper or demonstrated disability. The present complaint does no more than allege that the Judge made a number of errors in plaintiff's two actions. None of the alleged errors, singly or in combination, suggest misconduct or disability on the part of the Judge. Therefore, these allegations are dismissed as frivolous within the meaning of § 372(c)(3)(A)(iii) and Local Rule 4(c)(3) (charges that are "wholly unsupported" may be dismissed as frivolous").

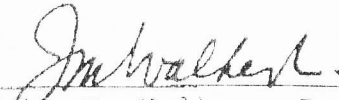
The Clerk is directed to transmit copies of this order to the

FROM :

PHONE NO. :

Oct. 17 1999 06:35AM P1

Complainant and to the Judge.



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John M. Walker, Jr.  
Chief Judge

Signed: New York, New York  
November 21, 2000