

United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Miguel J. Cortez
Clerk

In Replying Give Number
Of Case And Names Of Parties

August 23, 1995

Mr. Lester Swartz
P. O. Box 27-3225
Boca Raton, FL 33427-3225

RE: Misc. No. 95-1184, IN RE: LESTER SWARTZ

Dear Mr. Swartz:

Enclosed is an order of Chief Judge Gerald Bard Tjoflat which has been received and filed in this office and which is effective as of the date filed. This order determines the complaint of judicial misconduct earlier filed by you pursuant to 28 U.S.C. §372(c) and Addendum III of the Rules of the Judicial Council of the Eleventh Circuit. I also invite your attention to Rules 4, 5, 6 and 16 of Addendum III.

Sincerely,


Miguel J. Cortez
Clerk

MJC/sjs

Enclosure

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Miscellaneous Docket Nos. 95-1184 through 95-1201

IN THE MATTER OF COMPLAINTS FILED BY
LESTER SWARTZ

IN RE: The complaints of Lester Swartz (1) against sixteen members of the Judicial Council of the Eleventh Circuit who, constituting the nondisqualified members of the Council at the time in question, voted to affirm the order of the undersigned Circuit Chief Judge dismissing three complaints filed by the complainant under 28 U.S.C. § 372(c), and (2) against a disqualified member of the Council and the undersigned.

ORDER

On November 14, 1990, the United States District Court for the Southern District of Florida entered a final judgment dismissing the complainant Swartz' suit against The Florida Bar (and others), No. 90-6324-CIV-PAINE. Mr. Swartz appealed, and, on June 22, 1992, a panel of the United States Court of Appeals for the Eleventh Circuit affirmed the district court's judgment. Swartz v. The Florida Bar et al., No. 91-5119 (June 22, 1990) (unpublished).

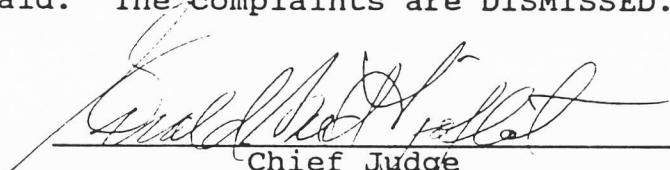
Being dissatisfied with the disposition of his case in the district court and on appeal, Mr. Swartz filed complaints of judicial misconduct, pursuant to 28 U.S.C. § 372(c), against the district judge who dismissed his case and the members of the court of appeals panel who decided his appeal. I ordered Swartz'

complaints dismissed on the ground that section 372(c) does not provide a mechanism for review of judicial rulings.

These dismissals were affirmed by the Judicial Council of this circuit. The sixteen members of the Council who participated in that decision are now complained against; Swartz contends that, in affirming my dismissal of his complaints, they engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts within the meaning of section 372(c). Swartz also complains against the judge who, being disqualified, did not pass on my dismissal of Swartz' complaints and against me because, according to Swartz, we conspired with the sixteen voting members of the Judicial Council to obtain the Council's affirmance of my dismissal orders.

I invoke the "Rule of Necessity" and entertain the merits of the instant complaints because (1) every active judge of the Eleventh Circuit Court of Appeals is disqualified under 28 U.S.C. § 372(c)(2) (because the instant complaints have been lodged against them) and (2) the statute makes no provision for an active member of any other court of appeals to assume, by intercircuit assignment, my duties under section 372(c).

Turning to the merits of Mr. Swartz' complaints, I conclude that they constitute a rank abuse of the section 372(c) process. Nothing more need be said. The complaints are DISMISSED.



Chief Judge
of the Eleventh Judicial Circuit

Dated this 23rd day of August, 1995.