



Post Office Box 1571
Monroeville, AL 36461
March 14, 2000

Mr. Thomas K. Kahn, Clerk
United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

RE: Petition for Review of Orders of Chief Judge Anderson Dismissing
Judicial Misconduct Complaints #00-0002, #00-0003, #00-0004, and
#00-0005

Dear Mr. Kahn:

Pursuant to Rule 5 of the Judicial Council of the Eleventh Circuit Governing Complaints of Judicial Misconduct and Disability under 28 U.S.C. Section 372 (c), I hereby petition the Judicial Council of the Eleventh Circuit for review of four Orders of Chief Judge R. Lanier Anderson III, dated February 7, 2000, dismissing my judicial misconduct complaints against:

- (1) U.S. Circuit Judge Gerald Bard Tjoflat of the U.S. Court of Appeals for the Eleventh Circuit (#00-0002);
- (2) U.S. District Judge Lacey A. Collier of the Northern District Of Florida (#00-0003);
- (3) Senior U.S. District Judge Wilbur D. Owens, Jr. of the Middle District of Georgia (#00-0004); and
- (4) Chief U.S. District Judge Roger Vinson of the Northern District Of Florida (#00-0005).

This petition for review is timely pursuant to this Circuit's Addendum Three, Rule 5(a), having been filed within 30 days of the February 14, 2000 date on the four letters of the Clerk's office transmitting the dismissal Orders.

As hereinafter particularized, review must be granted because the four Orders are completely non-conforming to the standards for dismissal orders under 28 U.S.C. Section 372 (c).

**ALL FOUR OF THE CHIEF JUDGE’S DISMISSAL ORDERS ARE NON-
CONFORMING TO THE REQUIRED STANDARDS FOR ORDERS DISMISSING
COMPLAINTS**

At the outset, review must be granted because the four Orders, each three sentences or less in length, are wholly conclusory. They do not identify any fact-specific allegations of my judicial misconduct complaints nor correlate them to the grounds for dismissal. These grounds are that the unidentified “allegations of the Complaint are ‘successive’—a non-statutory ground for dismissal on which Judge Anderson relied solely in dismissing three of the complaints and—as to the complaint against Judge Collier (#00-0003)—that the “allegations. . .are ‘directly related to the merits of a decision or procedural ruling’ and /or ‘successive.’ ”

As such, these conclusory, boilerplate Orders are completely non-conforming with the 1993 recommendation of the National Commission on Judicial Discipline and Removal (Exhibit “A,” pp. 108-9), endorsed by the Judicial Conference (Exhibit “B,” p. 28), based on the recommendation of its Committee to Review Circuit Council Conduct and Disability Orders, calling for reasoned, non-conclusory dismissals (Exhibit “C,” Report, pp. 22-24, Addendum, pp. 6-8). This is consistent with the Commentary on Rule 4 of the Illustrative Rules Governing Complaints of Judicial Misconduct and Disability, stating that the “statutory purposes” of 28 U.S.C. 372 (c) are best served when the chief judge’s orders disposing of complaints are “relatively expansive” (Exhibit “D,” p. 20).

A. As to the Chief Judge’s Dismissal Based on “Merits-Relatedness”

Only one complaint is dismissed as “directly related to the merits of a decision or procedural ruling,” and that is the Chief Judge’s Order dismissing the complaint against Judge Collier (#00-0003). However, 28 U.S.C. Section 372 (c)(3)(A) does NOT mandate dismissal of a complaint on such a ground—a fact evident from the discretionary language of that section, which reads:

- (3) After expeditiously reviewing a complaint, the chief Judge, by written order stating his reasons, MAY—
 - (A) dismiss the complaint, if he finds it to be. . . (ii) directly related to the merits of a decision or procedural ruling. . . . (emphasis added)

Since 28 U.S.C. Section 372 (c)(3)(A)(ii) is *discretionary*, compliance with the recommendation that dismissal orders be reasoned and non-conclusory required the Order to specify the basis for such discretionary exercise. This is wholly absent from the Order.

Moreover, as is highlighted at page 5 of the annexed article “*Without Merit: The Empty Promise of Judicial Discipline*” [Exhibit “E”: The Long Term View: Massachusetts School of Law, Vol. 4, No. 1 (summer 1997)], biased judicial conduct motivated by improper purpose, such as alleged in my judicial misconduct complaints, is not “merits-related.”

In failing to provide a statement of the allegations of the complaint and the reasons for his disposition, Judge Anderson has left me in the dark regarding the basis on which he concluded that

allegations such as Judge Collier's use of his judicial office to obtain special treatment for his friend, ex parte communications, failure to disclose, failure to disqualify, aiding and abetting, and acceptance of the perpetration of fraud on the court fall within the purview of merits-relatedness. In addition, it is exceedingly difficult for me to understand how the steering of my case from one judge to another could be considered merits-related. The conduct complained of in the complaint clearly stemmed from, and was alleged to have stemmed from, Judge Collier's failure to respect and to abide by the rules which govern his conduct, particularly with respect to his duty to have disclosed his relationship with the counsel for the defendant and to have disqualified himself when there were known facts bearing upon the appearance of bias or prejudice pursuant to 28 U.S.C. Section 455.

B. As to the Chief Judge's Dismissal Based on "Successive" Allegations

The three Orders which dismiss the allegations of three of my complaints as "successive" (#00-0002, #00-0004, and #00-0005) and the fourth Order, which tacks the ground "successive" as an additional or alternative ground to the dismissal on "merits-related grounds (#00-0003), are likewise conclusory as to that ground. Indeed, all four Orders do not even specify what they are "successive" to. They do not refer to any of my prior judicial misconduct complaints, let alone the dates of those complaints or their assigned docket numbers.

Addendum Three, Rule 18(c) states that the "Chief Judge shall dismiss as successive any complaint of judicial misconduct that was the subject of a complaint that the Chief Judge previously disposed of under [Addendum Three] rules." However, the statutory authority cited by the Circuit for that rule, which is a global reference to subdivisions (1)(2)(3) of Section 372(c), does not authorize dismissal on that ground.

It must be noted that my prior March 24, 1994 judicial misconduct complaints (#94-1045, #94-1046, #94-1047, and #94-1048) were all improperly dismissed by orders which failed to give reasoned, non-conclusory bases for the dismissals. Examination of those orders, when compared to the complaints, shows that they falsely claim that my complaints consisted of "generally conclusory allegations." Only by concealing every allegation of the complaints were the dismissal Orders able to falsely contend that the complaints contained "no allegations. . . [of] 'conduct prejudicial to the effective and expeditious administration of the business of the courts' within the meaning of 28 U.S.C. 372(c)(1)."

My instant complaints are based on on-going and deliberate judicial misconduct committed subsequent to that alleged in my earlier complaints, and included the allegation that Judge Owens and/or or his staff falsified the official trial transcript (#00-0004). These complaints were occasioned by new evidence in the November 7, 1999 Pensacola News-Journal, as to the closeness that exists between the powerful, chief counsel for the defendant in my case and Judge Collier. To deny me the right to disciplinary review of subsequent allegations of further judicial misconduct and the new evidence substantiating the undisclosed relationships existing in the case, is, at very least, a violation of the spirit of the statute, if not the statute itself.

CONCLUSION

Chief Judge Anderson's conclusory, non-conforming dismissal Orders make manifest that my fact-specific judicial misconduct complaints have not been thoughtfully and fairly considered. Indeed,

they call into question the very integrity and credibility of this Circuit's implementation of Section 372(c). For the foregoing reasons, I petition the Judicial Council for review of the Chief Judge's dispositions of my complaints.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alberta Davison".

Alberta Davison
(334) 575-7544

Enclosures