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March 24, 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 Order of Chief Judge Anderson Dismissing
Judicial Misconduct Complaint #00-0004

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 the Order of Chief Judge R. Lanier Anderson III, dated February 7, 2000, dismissing my judicial misconduct complaint against Senior U.S. District Judge Wilbur D. Owens, Jr. of the Middle District of Georgia. 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 your letter of the Clerk's office transmitting the dismissal Order and within 10 days of your extended due date of March 27, 2000.¹

¹ On March 15, 2000, I filed a timely petition for review which was rejected on three grounds. These grounds were that the petition "identifie[d] more than one case number," that "it identifie[d] four judicial officers by name," and that "it . . . attached a group of exhibits which [were] not authorized by Rule 5(b) of Addendum III." By letter dated March 20, 2000, I responded to these objections. As to the objection relating to the attachment of exhibits, I stated the following:

"I do not see where that rule bars me from including exhibits. It simply says that a petition for review shall be 'in the form of a letter.' Letters routinely contain attachments or enclosures. Would it be less objectionable if I refer to the documents as attachments or enclosures? I might point out that my complaint annexed Exhibits 'A' and 'B,' and there was no objection. I see no reason why the petition for review could not likewise include exhibits, if necessary referred to as attachments or enclosures. Indeed, it is in the interest of the Judicial Council to have those documents supplied by me since otherwise it would have to independently obtain them either from the Judicial Conference or from law library research. This would require the Judicial Council to expend otherwise needless time and effort since it plainly could not evaluate the petition without examining the referred-to documents which are central to my arguments."

Nevertheless, I was required to revise the petition to exclude the exhibits. The position of the Office of Circuit Executive is that I must delete all exhibits, attachments, and enclosures. As a consequence, the five different exhibits that were annexed to my original petition have not been furnished. They are incorporated herein by reference, and I trust that the Judicial Council will secure copies of these documents on its own from the Judicial Conference or from law library research.

**THE CHIEF JUDGE'S DISMISSAL ORDER IS BASED ON A NON-STATUTORY
GROUND FOR DISMISSAL**

At the outset, review must be granted because the sole ground for dismissal, that the complaint's allegations are "successive," is a ground not authorized by 28 U.S.C. Section 372(c). Although Addendum III, 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," the statutory authority it cites is a global reference to subdivisions (1)(2)(3) of Section 372(c). Examination of those subdivisions does not specify such a ground for dismissal.

**THE CHIEF JUDGE'S DISMISSAL ORDER IS NON-CONFORMING TO THE
REQUIRED STANDARDS FOR ORDERS DISMISSING COMPLAINTS**

Review must also be granted because the Order, less than three sentences in length, is wholly conclusory. In dismissing the complaint's allegations as "successive," it does not identify a single one of those allegations, nor identify what they are successive to. It does not refer to my prior judicial misconduct complaint, let alone the date or assigned docket number.

As such, this conclusory, boilerplate Order is completely non-conforming with the 1993 recommendation of the National Commission on Judicial Discipline and Removal (pp. 108-9), endorsed by the Judicial Conference in its Report of the Proceedings of the Judicial Conference of the United States, March 15, 1994 (p. 28), based on the recommendation of its Committee to Review Circuit Council Conduct and Disability Orders (Report, pp. 22-24, Addendum, pp. 6-8), calling for reasoned, non-conclusory dismissals. This is consistent with the Commentary on Rule 4 of the Illustrative Rules Governing Complaints of Judicial Misconduct and Disability (p. 20), 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."

It must be noted that my prior March 18, 1994 judicial misconduct complaint (#94-1046) was also improperly dismissed by a non-conforming, conclusory order. Moreover, that March 24, 1994 Order was based on a false claim that my complaint consisted of "generally conclusory allegations." Only by concealing every allegation of the complaint was the dismissal Order able to falsely contend that the complaint 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)." Obviously, to use the non-conforming and fraudulent disposition of my prior complaint as a basis for dismissing my current complaint would compound the injury done to me by the earlier order.

Additionally, my instant complaint is based on on-going judicial misconduct committed subsequent to that alleged in my earlier complaint, including the allegation that Judge Owens and/or his staff falsified the official trial transcript. This complaint was also occasioned by new evidence in the November 7, 1999 Pensacola News-Journal, as to the depth of the closeness that exists between the powerful, chief counsel for the defendant in my case and a judge who presided over said case. 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 Order makes manifest that my fact-specific judicial misconduct complaint has not been thoughtfully and fairly considered. Indeed, it calls 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 disposition of my complaint.

Respectfully submitted,

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

Alberta Davison
(334) 575-7544