

25-90038-jm
June 11, 2026
Chief Judge

**JUDICIAL COUNCIL OF THE
SECOND CIRCUIT**

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In re
CHARGE OF JUDICIAL MISCONDUCT Docket No. 25-90038-jm

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DEBRA ANN LIVINGSTON, *Chief Judge*:

In May and July 2025, Complainant filed a complaint and supplemental papers with the Clerk’s Office of the United States Court of Appeals for the Second Circuit pursuant to the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364 (the “Act”), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (the “Rules”), charging a district judge of this Circuit with misconduct.

BACKGROUND

In February 2024, the Complainant, representing himself, commenced a lawsuit against a state agency and state officials seeking a declaration and injunction preventing the State from levying his assets to collect unpaid taxes. In

March 2025, the Judge granted the defendants' motion to dismiss, finding, as relevant here, that the court lacked subject matter jurisdiction. In the same order, the Judge noted in a footnote that the Complainant had filed a "flurry of other motions" that the Judge did not intend to address other than to advise the Complainant that repeated frivolous filings could result in sanctions. Finally, also in the same order, the Judge denied the defendants' motion for a filing injunction against the Complainant, though the Judge noted that the Complainant's lawsuit was largely duplicative of prior lawsuits he had filed, and stated that the Complainant was "on notice" that he may be sanctioned if he continues to file duplicative litigation. The Complainant then moved for relief from the judgment under Fed. R. Civ. P. 60(b); the Judge construed the filing as a motion for reconsideration, and denied it.

This misconduct complaint followed. The Complainant recounts the procedural history and alleges that the Judge "aided and abetted fraud" by "adopt[ing] opposing counsel's false characterization of my federal action," and denied him due process by "unilaterally converting" his Rule 60(b) motion to a motion for reconsideration. Further, the Judge allegedly committed "fraud upon the court" through "misrepresentation of [the Complainant's] filings and failure

to address opposing counsel's fraudulent conduct," and was biased against the Complainant, as evidenced by the "sanctions threat and summary denial of [the Complainant's] motion."

In a supplemental filing, the Complainant attaches about 70 pages of documents, including filings from his underlying cases and copies of letters he has sent to government officials reiterating his allegations of judicial misconduct.

DISCUSSION

The complaint is dismissed.

The allegations that the Judge erred by adopting or agreeing with the opposing counsel's arguments, that he wrongly converted the Rule 60(b) motion to a motion for reconsideration, and that his decision to dismiss the Complainant's complaint relied on an erroneous interpretation of the facts or law are claims that the Judge got it wrong, not that he engaged in misconduct. The allegations are therefore dismissed as "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); Rule 4(b)(1) ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse."); 11(c)(1)(B). Purely merits-related allegations are excluded from the Act to "preserve[] the independence of

judges in the exercise of judicial authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge's decision or procedural ruling." Rule 4 cmt. If the Complainant wishes to challenge the dismissal of his lawsuit and the denial of his Rule 60(b) motion, he may do so, to the extent the law allows, through normal appellate procedures.

The claim of bias is derivative of the merits, but to the extent it is separate, it is dismissed as "lacking sufficient evidence to raise an inference that misconduct has occurred." Rule 11(c)(1)(D). The Complainant provides no evidence to support this claim apart from decisions that he believes were incorrect, but decisions for or against a party, without more, are not evidence of bias.

The Clerk is directed to transmit copies of this order to the Complainant and to the Judge.