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UNITED STATES COURT OF APPEALS

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FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
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February 20, 1991

CONFIDENTIAL

Honorable Collins A. Seitz,
United States Circuit Judge
Federal Building, Lock Box No. 32
844 King Street
Wilmington, DE 19801-3574

✓ Mr. George Sassower
16 Lake Street
White Plains, New York 10603

Re: Matter of a Complaint Against a
United States Circuit Judge Under
28 U.S.C. §372(c)
J. C. No. 91-07

Dear Judge Seitz and Mr. Sassower:

Enclosed herewith is copy of Opinion and Order entered
today by Chief Judge Sloviter in the above-entitled case.

Very truly yours,
SALLY MRVOS, Clerk

By: *M. Elizabeth Ferguson*
Chief Deputy Clerk

MEF/af
Enclosures

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 91-07

GEORGE SASSOWER,
Complainant,

v.

HON. COLLINS J. SEITZ,
Respondent.

ORIGINAL PROCEEDINGS UNDER 28 U.S.C. § 372(c)

MEMORANDUM OPINION

(Filed: February 20, 1991)

PRESENT: SLOVITER, Chief Judge.

George Sassower has filed a complaint pursuant to 28 U.S.C. § 372(c) against Hon. Collins J. Seitz, Senior Circuit Judge within the United States Court of Appeals for the Third Circuit.

The complaint will be dismissed, pursuant to 28 U.S.C. § 372(c)(3)(A), for the reasons that follow.

Complainant was a party pro se to a civil RICO action in the District of New Jersey (Civ. No. 88-1012) and a petition for writ of mandamus (C.A. No. 88-5441), as well as an appellant in an appeal from a criminal conviction (C.A. No. 89-5810).

In this second of four complaints filed on January 28, 1991, Mr. Sassower asserts that the respondent, Judge Seitz, denied his petition for a writ of mandamus on July 21, 1988, although he had knowledge of certain allegedly unlawful acts taken both by Judge Politan (the judge in the district court proceeding) and a law firm, Clapp & Eisenberg, P.C. Next, Mr. Sassower asserts that, as a result, the subsequent affirmance of his conviction by a panel of the Third Circuit in No. 89-5810, of which Judge Seitz was a member, was tainted. His third allegation is that the decisions in the two court of appeals proceedings resulted in the unjust enrichment of Clapp & Eisenberg, P.C., at the expense of an individual named Hyman Raffe. The relationship of Raffe to the complainant is unclear. Finally, he complains of Judge Seitz's failure to initiate disciplinary proceedings against the law firm.

I find that the complainant's allegations do not state a cognizable claim under 28 U.S.C. § 372(c). Under 28 U.S.C. § 372(c)(3)(A), a Chief Judge, after reviewing a judicial complaint, may

dismiss the complaint, if [s]he finds it to be (1) not in conformity with paragraph (1) of this subsection,¹ (ii) directly related to the merits of a decision or procedural ruling, or (iii) frivolous.

1. The reference is to 28 U.S.C. § 372(c)(1) which provides for complaints that a judicial officer "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or that such judicial officer "is unable to discharge all the duties of office by reason of mental or physical disability."

This section reflects Congress' concern that judicial complaints not serve as an alternative means for disappointed litigants to challenge judicial action or inaction in the course of litigation which is reviewable by appeal or mandamus.

I find that the present allegations are directly related to the merits of Judge Seitz's decisions.

Accordingly, the complaint will be dismissed.



Chief Judge

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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GEORGE SASSOWER,
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HON. COLLINS J. SEITZ,
Respondent.

ORIGINAL PROCEEDINGS UNDER 28 U.S.C. § 372(c)

ORDER

(Filed: February 20, 1991)

PRESENT: SLOVITER, Chief Judge.

On the basis of the foregoing opinion dated
February 20, 1991 , it is

ORDERED AND ADJUDGED that the written complaint of Mr.
George Sassower brought pursuant to 28 U.S.C. § 372(c)(1) is
hereby dismissed pursuant to 28 U.S.C. § 372(c)(3)(A) because the
allegations are directly related to the merits of a decision. 28
U.S.C. § 372(c)(3)(A)(ii).

This order constitutes a final order under Rule 4(B),
Rules of the Judicial Council of the Third Circuit Governing
Complaints of Judicial Misconduct or Disability.

The complainant is notified in accordance with Rule 5, Rules of the Judicial Council of the Third Circuit Governing Complaints of Judicial Misconduct or Disability, of his or her right to appeal this decision via the following procedures.

(A) Petition. [A] petition for review may be addressed to the Judicial Council of the Third Circuit.

(B) Time. A petition for review must be received in the office of the clerk of the court of appeals within 30 days of the date of the clerk's letter transmitting the chief judge's order.

(C) Form. A petition should be in the form of a letter addressed to the clerk of the court of appeals, beginning "I hereby petition the judicial council for review of the chief judge's order . . ." There is no need to enclose a copy of the original complaint.

The full text of Rule 5 is available from the Clerk's Office of the Court of Appeals of the Third Circuit.



Chief Judge

Dated: February 20, 1991