

OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

TELEPHONE  
215-597-2995

SALLY MRVOS  
CLERK

FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA 19106-1790

February 20, 1991

CONFIDENTIAL

Honorable Nicholas H. Politan,  
United States District Judge  
445 U. S. Courthouse & Post Office Building  
Newark, New Jersey 07101

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

Re: Matter of a Complaint Against a  
United States District Judge Under  
28 U.S.C. §372(c)  
J. C. No. 91-09

Dear Judge Politan:

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:   
Chief Deputy Clerk

MEF/af  
Enclosures

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. No. 91-09

---

GEORGE SASSOWER,  
Complainant,

v.

HON. NICHOLAS H. POLITAN,  
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. Nicholas H. Politan, a U.S. District Judge within 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 defendant in a criminal action in the district of New Jersey (Crim. No. 89-103), a plaintiff pro se in a civil RICO action (Civ. No. 88-1012), a petitioner in a mandamus proceeding (C.A. No. 88-5441) and an appellant in an appeal from a criminal conviction (C.A. No. 89-5810).

In this fourth of four judicial misconduct complaints filed on January 28, 1991, Mr. Sassower makes several allegations against U.S. District Judge Nicholas H. Politan. These are: (1) Judge Politan allegedly engaged in ex parte communications with certain unnamed persons, in furtherance of a criminal racketeering conspiracy to allow funds to flow from a third party to a law firm, Clapp & Eisenberg, P.C.; (2) Judge Politan allegedly entered into a conspiracy with Judge Charles L. Briant, Chief Judge of the Southern District of New York, resulting in Mr. Sassower being barred from the federal courthouse in White Plains, N.Y.; (3) Judge Politan allegedly engaged in ex parte communications with Magistrate Nina Gershon of the Southern District of New York; and (4) Judge Politan allegedly refused to allow Mr. Sassower to file a notice of appeal from an order of the district court.

Mr. Sassower cannot obtain relief against Judge Politan on any of these bases. Whatever the validity of the allegations of ex parte communications and conspiracy, the alleged end result of these acts -- the flow of money from an individual to a law firm -- is not "conduct prejudicial to the effective and expeditious administration of the business of the courts." 28 U.S.C. § 372(c)(1). The allegation that Judge Politan participated in the decision of judicial officers in the Southern District of New York to bar Mr. Sassower from that district courthouse is directly related to the merits of a procedural ruling in another court. Finally, Judge Politan's alleged decision not to allow Mr. Sassower to appeal is also directly

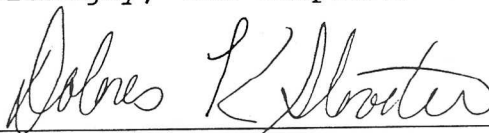
related to the merits of a decision or a procedural ruling, and therefore not actionable here.

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,<sup>1</sup> (ii) directly related to the merits of a decision or procedural ruling, or (iii) frivolous.

This section reflects the legislature's 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 not in conformity with 28 U.S.C. § 372(c)(1) and are directly related to the merits of a decision or a procedural ruling. 28 U.S.C. § 372(c)(3)(A)(ii). Accordingly, the complaint will be dismissed.



Chief Judge

---

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."

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. No. 91-09

---

GEORGE SASSOWER,  
Complainant,

v.

HON. NICHOLAS H. POLITAN,  
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 contained within it are not in conformity with 28  
U.S.C. § 372(c)(1) and are directly related to the merits of a  
decision or a procedural ruling. 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