

JUDICIAL COUNCIL OF THE SECOND CIRCUIT

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In re  
CHARGE OF JUDICIAL MISCONDUCT

No. 87-8503  
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JAMES L. OAKES, Acting Chief Judge:

On March 20, 1987, a complaint was filed with the Clerk's office pursuant to 28 U.S.C. § 372(c) and Local Rule 0.24(a), charging three court of appeals judges of this circuit and one district court judge of this circuit ("the judges") with judicial misconduct. Supplements were filed on March 25, 1987, and March 30, 1987. Pursuant to 28 U.S.C. § 372(c)(2), the complaint was referred to the undersigned.

Complainant is a litigant who was held in contempt of court by the district court judge complained against for failing to appear for a deposition. The court of appeals judges complained against were the panel members who affirmed the order on appeal.

In a lengthy and often repetitive complaint, in which numerous allegations of misconduct by opposing counsel and state judicial officers are made in connection with certain state receivership and judicial proceedings, complainant also makes numerous allegations related to the validity of the

district court's contempt order, including that it resulted from a corrupt agreement between the judges and complainant's adversaries, and that it was entered and affirmed without jurisdiction and without a hearing. Complainant also asserts that the judges have perjured themselves, and committed other, unspecified, impeachable offenses. With respect to the district court judge, complainant also asserts that the judge granted unduly favored treatment to the court-appointed receiver in the case.

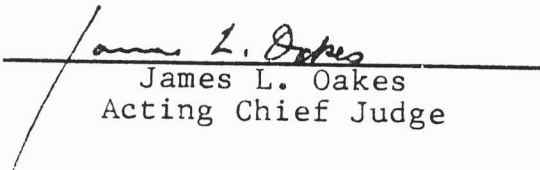
Complainant now requests a hearing and challenges the court to find a jury that would convict him.

Complainant's allegations that the judges made improper or incorrect rulings in his contempt proceedings are directly related to the merits of the litigation. As thus "directly related to the merits of a decision or procedural ruling," they are inappropriate for review under the Judicial Council's Reform and Judicial Conduct and Disability Act (the Act) codified in 28 U.S.C. § 372(c). These portions of the complaint are therefore dismissed pursuant to 28 U.S.C. § 372(c)(3)(A)(ii) and Local Rule 0.24(b).

Complainant's charge that the district court judge exhibited favoritism toward the court-appointed receiver is unsupported by anything other than the allegations of the complaint. Similarly, the allegations that the contempt order resulted from a corrupt agreement between the judges and

complainant's adversaries and that the judges engaged in perjury, a corrupt usurpation of power, and other unspecified impeachable offenses are likewise not substantiated. Accordingly, these portions of the complaint are dismissed as frivolous pursuant to 28 U.S.C. § 372(c)(3)(A)(iii) and Local Rule 0.24(b).

The Clerk is directed to transmit copies of this order to the complainant and to the judges who are the subject of this complaint.

  
James L. Oakes  
Acting Chief Judge

Dated: New York, New York  
April 16, 1987