

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY,

No. TC-19-90002

ORDER

The Court received a complaint alleging that a judge of the United States Tax Court engaged in judicial misconduct. Upon due consideration, it is

ORDERED that the complaint is dismissed for the reasons stated in the attached Memorandum.

The Clerk of the Court is directed to send copies of this Order to the complainant, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 11(g)(2), Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (USTC Rules for Judicial Conduct).¹

The complainant and the subject judge have the right to petition the Judicial Conduct and Disability Council to review this Order. USTC Rules for Judicial Conduct, Rule 11(g)(3). The deadline for filing such a petition is within forty-two (42) days after the date of the Chief Judge's Order, and the timely mailing/timely filing provision of 26 U.S.C. sec. 7502 does not apply. USTC Rules for Judicial Conduct, Rule 18(a), (b).



Maurice B. Foley
Chief Judge

Dated: Washington, DC
June 25, 2019

¹ The USTC Rules for Judicial Conduct require the Chief Judge's decision to be publicly available, but the identities of the judge and the complainant are protected if the complaint is finally dismissed under Rule 11(c). USTC Rules for Judicial Conduct, Rule 24. Accordingly, the Court will not identify the parties in this matter, nor describe the context in which the complainant's grievances arose with any degree of specificity.

SERVED JUN 25 2019

MEMORANDUM

FOLEY, Chief Judge: Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a judge of the United States Tax Court. For the following reasons, the complaint will be dismissed.

In the judicial misconduct complaint, complainant alleges that the judge in the underlying tax case has improperly ruled on motions in that case and alleges possible ex parte communication between the judge and opposing party.

A complaint must be dismissed in whole or in part when it is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred. Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court ("Rules"), Rule 11(c)(1)(D). Although complainant contends possible ex parte communication, complainant provides nothing more than an unsupported allegation.

Cognizable misconduct does not include allegations that are directly related to the merits of a decision or procedural ruling, and a complaint must be dismissed in whole or in part when the Chief Judge concludes this is so. Rule 3(i)(3)(A) and 11(c)(1)(B). The assertions raised in the complaint regarding rulings in the tax case are directly related to the merits of a decision or procedural ruling. Rule 11(c)(1)(B).

The complaint must be dismissed.