

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY,

No. TC-17-90004

ORDER

The Court received a complaint, and supplement thereto, alleging that a judge of the United States Tax Court engaged in judicial misconduct.¹ 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.

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).


L. Paige Marvel
Chief Judge

Dated: Washington, DC
June 1, 2017

¹ The Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (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.

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MEMORANDUM

MARVEL, Chief Judge: Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a judge of the United States Tax Court, with a supplement thereto in the form of a letter to the Chief Judge. For the following reasons, the complaint will be dismissed.

In the judicial misconduct complaint, complainant alleges that “bias, incapacity, or arrogant denial” was operative in judicial rulings in the underlying Tax Court case. Complainant further alleges that the Judge incorrectly stated in the order and decision that complainant did not contest her tax bill.

Complainant does not include, nor does the underlying case record provide, any evidence supporting the allegations of bias or incapacity. Adverse rulings do not constitute proof of mental incapacity. Because there is no evidence that the judge is biased or disabled, these charges must be dismissed. United States Tax Court, Rule 11(c)(1)(D).

To the extent complainant attempts to allege that the judge demonstrated “arrogant denial” in his judicial rulings and made incorrect statements in an order and decision, these allegations relate directly to the merits of the judge’s rulings and must be dismissed. 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. Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court, Rules 3(i)(3)(A) and 11(c)(1)(B).