



United States Tax Court
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY,

No. TC-24-90004

ORDER

On February 21, 2024, the Court received a complaint alleging that a judge of the United States Tax Court engaged in judicial misconduct. By letter dated February 29, 2024, the Court acknowledged receipt of the complaint.

After reviewing a complaint, the Chief Judge must determine whether it should be: (1) dismissed, (2) concluded on the ground that voluntary corrective action has been taken, (3) concluded because intervening events have made action on the complaint no longer necessary, or (4) referred to a special committee. Rule 11(a), Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (USTC Rules for Judicial Conduct).

Upon due consideration, and for cause, 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 complainants, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 11(g)(2), USTC Rules for Judicial Conduct.¹

The complainants and the subject judge have the right to petition the Judicial Conduct and Disability Council to review this Order. Rule 11(g)(3), USTC Rules for Judicial Conduct. The deadline for filing such a

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

Served 06/06/24

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petition is within 42 days after the date of the Chief Judge's Order, and the timely mailing/timely filing provision of 26 U.S.C. § 7502 does not apply. Rule 18(a), (b), USTC Rules for Judicial Conduct.

(Signed) Kathleen Kerrigan
Chief Judge

MEMORANDUM

KERRIGAN, *Chief Judge*: Complainants have filed a complaint alleging judicial misconduct by a judge of the United States Tax Court. For the following reasons, the complaint will be dismissed.

Complainants allege that the subject judge improperly issued an order of dismissal and was colluding with the IRS.

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 3(i)(3)(A) and 11(c)(1)(B), USTC Rules for Judicial Conduct. Dismissal of the complaint is therefore appropriate because the allegation of improper dismissal is directly related to the merits. Rule 11(c)(1)(D), USTC Rules for Judicial Conduct; *see In re Complaint under the Judicial Conduct and Disability Act of 1980*, No. 11-10-90018 (11th Cir. C.J. Apr. 30, 2010) (allegation of erroneous dismissal is merits-related and must be dismissed).

The Chief Judge must also dismiss a complaint in whole or in part when the Chief Judge concludes that the complaint is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred. Rule 11(c)(1)(D), USTC Rules for Judicial Conduct. Complainants allege that the subject judge colluded with the IRS without providing any evidence of such collusion. *Id.*; *see In re Complaint*, No. 432 (1st Cir. C.J. June 12, 2006) (complaint dismissed because there was no indication of specifics of alleged collusion); *In re Complaint of Judicial Misconduct*, No. 27 (Fed. Cir. Apr. 25, 1989), *aff'g* (Fed. Cir. C.J. Feb. 16, 1989) (unsupported and conjectured allegations not enough to support a complaint for judicial misconduct).

As explained above, complainants' allegations do not support a finding of misconduct by the subject judge. Accordingly, the complaint against the subject judge is dismissed.