

UNITED STATES COURT OF INTERNATIONAL TRADE

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In the Matter of a *

Judicial Complaint *

Under 28 U.S.C. § 351 *

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Docket No. CIT-23-90001

Complainant brings this judicial complaint against an international trade judge pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–364 (“the Act”). The Act provides an administrative remedy for judicial conduct that is “prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a).

In September 2023, Complainant, a former (remote) intern in the chambers of the subject judge, provided several versions of a draft complaint to the court. Those draft complaints were provided to me and, consistent with 28 U.S.C. § 351(b) and Rule 5 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“JCD Rules”), I engaged in a process to evaluate whether the information met the threshold for me to identify a complaint against the subject judge. To that end, I met separately with Complainant (virtually) and with the subject judge (in person). I also made inquiries with other court personnel, a former law clerk of the subject judge, and officials with the U.S. Marshals Service (“USMS”), all of whom had knowledge related to Complainant’s internship and events raised in the draft complaints.

On September 28, 2023, I informed Complainant, by email, that I had completed my inquiry and was not taking further action. On October 24, 2023, Complainant filed the complaint that initiated this proceeding.

Pursuant to 28 U.S.C. § 352(b)(1)(A)(iii), the chief judge may dismiss a complaint if he finds that it is “frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation.” See *also* JCD Rule 11(c)(1). Complainant’s various allegations from the multiple draft complaints, the intervening communications, and the instant complaint, as well as information from my pre-complaint inquiry, taken individually and as a whole, provide insufficient evidence to raise an inference that misconduct has occurred and, therefore, the complaint will be dismissed.

Complainant asserts that, at the conclusion of her only in-person meeting with the subject judge during her internship, she gave to him a poem that she had written. She alleges that the subject judge interpreted the poem inappropriately; she bases this allegation on two isolated and generic words from his subsequent email and her perception of his demeanor during a follow-up video conference. Complainant terminated her internship thereafter. At Complainant’s request, the subject judge returned the poem by registered mail.

Complainant further alleges that the subject judge inappropriately communicated with her law school without her knowledge and forwarded her emails to others without her knowledge. The emails in question have been provided to me by the subject judge and by court officials. (Complainant declined to provide any email communications during my pre-complaint inquiry and did not provide any with the instant complaint.)

The communications with the law school sought to have them provide support to Complainant after she terminated her internship. Complainant also continued to contact the subject judge and, based on the nature and volume of those communications, he consulted with court personnel and, eventually, USMS personnel. Further emails from Complainant were automatically blocked from the subject judge and forwarded to USMS personnel and, when Complainant's attempts to communicate continued, a cease-and-desist request was sent to Complainant.

Judicial misconduct is that which is prejudicial to the effective and expeditious administration of the business of the courts and includes engaging in unwanted, offensive, or abusive sexual conduct, treating judicial employees in a demonstrably egregious and hostile manner, or creating a hostile work environment. JCD Rule 3(h); *see also* 28 U.S.C. § 351(a). The complaint fails to allege conduct that rises to this standard, and my pre-complaint inquiry did not suggest any additional basis for investigation. While Complainant may feel that she has been wronged based on her interpretation of the subject judge's reaction to her poem, his decision to forego further direct communications with her, his outreach to officials at her law school (to provide assistance to her), and his outreach to the USMS (for assistance in resolving the flow of email communications from Complainant), none of this is suggestive of misconduct by the subject judge.

Accordingly, this judicial complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) as lacking sufficient evidence to raise an inference that misconduct has occurred.

SO ORDERED.

Dated: January 23, 2024

/s/ Mark A. Barnett
Mark A. Barnett
Chief Judge