



United States Tax Court
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY,

No. TC-23-90002

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 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. USTC Rules for Judicial Conduct, Rule 18(a), (b).

(Signed) Kathleen Kerrigan
Chief Judge

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 06/12/23

MEMORANDUM

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

Complainant alleges that the judge presiding over complainant's underlying Tax Court case appeared to make rulings in favor of the opposing party erroneously and that the judge should have recused himself from this case.

The underlying tax case record demonstrates that the judge's rulings were merits related. Cognizable misconduct does not include allegations that are directly related to the merits of a decision or procedural ruling, including a failure to recuse, 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. Further, dismissal is appropriate because the complaint lacks sufficient factual allegations of discrimination or bias. Rule 11(c)(1)(D), USTC Rules for Judicial Conduct; see *Rote v. Judicial Conduct and Disability Committee*, 2021 WL 6197041, at 2* (D. Or. Dec. 30, 2021).

The complaint is dismissed.