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§ 351. Complaints; judge defined

(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term “chief judge”). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

(d) DEFINITIONS.—In this chapter—

(1) the term “judge” means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

(2) the term “complainant” means the person filing a complaint under subsection (a) of this section.

(Added Pub. L. 107–273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1848.)

Statutory Notes and Related Subsidiaries

SEVERABILITY

Pub. L. 107–273, div. C, title I, §11044, Nov. 2, 2002, 116 Stat. 1856, provided that: “If any provision of this subtitle [subtitle C (§§11041–11044) of title I of div. C of Pub. L. 107–273, enacting this chapter, amending sections 331, 332, 372, 375, and 604 of this title, and section 7253 of Title 38, Veterans’ Benefits, and enacting provisions set out as a note under section 1 of this title], an amendment made by this subtitle, or the application of such

provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.”

§ 352. Review of complaint by chief judge

(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

(1) dismiss the complaint—

(A) if the chief judge finds the complaint to be—

(i) not in conformity with section 351(a);

(ii) directly related to the merits of a decision or procedural ruling; or

(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge’s order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.