

COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY  
OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

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C.C.D. No. 19-03

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IN RE: COMPLAINTS UNDER THE JUDICIAL CONDUCT AND DISABILITY ACT

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PROCEEDING IN REVIEW OF THE ORDER  
OF THE JUDICIAL COUNCIL OF THE COURT OF FEDERAL CLAIMS  
J.C. Nos. CL-18-90172, 174

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MEMORANDUM OF DECISION

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(Filed January March 31, 2020)

Present: Judges Anthony J. Scirica, Chair, Sarah Evans Barker, Joel F. Dubina, Joel M. Flaum, Thomas F. Hogan, James E. Gritzner, and Jon O. Newman.

**MEMORANDUM OF DECISION**

This matter is before the Judicial Conduct and Disability Committee on a petition for review filed by a judge who was the subject of two complaints under the Judicial Conduct and Disability Act of 1980 (“Act”), 28 U.S.C. §§ 351–64, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“JC&D Rules”). The Subject Judge seeks review of a May 2, 2019, order of the Judicial Council of the U.S. Court of Federal Claims, concluding judicial misconduct proceedings based on the judge’s retirement.

The Judicial Conduct and Disability Committee reviews this petition for review under 28 U.S.C. § 357 and JC&D Rules 21(a) and 21(b)(1)(A). For the reasons we explain, we deny this petition for review and affirm the Judicial Council’s order.

In the fall of 2018, the court received reports alleging that the Subject Judge engaged in judicial misconduct. The Acting Chief Judge referred the complaints to a Special Committee for investigation. 28 U.S.C. § 353(c); JC&D R. 11(f). In the spring of 2019, the Subject Judge retired, permanently and irrevocably relinquishing their judicial office, under 28 U.S.C. § 178(j)(4)(A).

The Special Committee forwarded the matter to the Judicial Council recommending that the Judicial Council conclude the complaints because the Subject Judge's retirement was an "intervening event[ that] made the proceeding unnecessary." JC&D R. 20(b)(1)(B). The Judicial Council agreed. According to the Council, "[w]here a former judge has fully resigned [their] judicial office, and can no longer perform any judicial duties, that former judge does not fall within the scope of persons who can be investigated under the Act." In concluding the proceedings, the Judicial Council did not reach the merits of the complaints.

In a petition for review, the Subject Judge argues that the Acting Chief Judge abused their discretion in making various procedural determinations during the course of the proceeding. Because the Judicial Council did not reach the merits of the complaints, but rather concluded the complaints based on the Subject Judge's retirement, we need not address these arguments. The Judicial Council's conclusion of the complaints based on the Subject Judge's retirement was warranted and proper. *See* JC&D R. 21(a) (providing that review by the Judicial Conduct and Disability Committee of circuit judicial council orders is for errors of law, clear errors of fact, or abuse of discretion). We deny the Subject Judge's petition for review and affirm the Circuit Judicial Council's order.