

MAR - 2 2017

CIRCUIT EXECUTIVE

**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

111690045

**IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY**

ON PETITION FOR REVIEW*

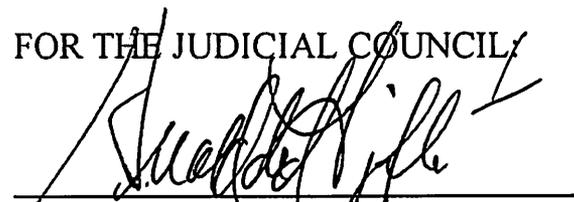
Before: TJOFLAT, HULL, MARCUS, WILSON, WILLIAM PRYOR, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, WATKINS, and WOOD, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Wilson, Pryor, Land and Watkins, the order of Chief Judge Ed Carnes filed on 2 November 2016, and of the petition for review filed by the complainant on 15 December 2016, with no non-disqualified judge on the Judicial Council Review Panel having requested that this matter be placed on the agenda of a meeting of the Judicial Council,

The Judicial Council Review Panel hereby determines that the disposition of this matter was proper and said disposition is hereby AFFIRMED.

The foregoing actions are APPROVED.

FOR THE JUDICIAL COUNCIL



United States Circuit Judge

* Chief Circuit Judge Ed Carnes and Chief District Judge Rodgers did not take part in the review of this petition.

NOV 02 2016

David J. Smith
Clerk

CONFIDENTIAL

**BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT**

Judicial Complaint No. 11-16-90045

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. District Judge for the U.S. District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States District Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

Background

The record shows that in January 2008 a federal grand jury issued a superseding indictment against Complainant and a codefendant, charging Complainant with conspiracy to possess with intent to distribute controlled substances (Count One), possession with intent to distribute a controlled substance (Count Two), two counts of distribution of a controlled substance (Counts Four and Five), possession of firearms in furtherance of a drug trafficking crime (Count Six), and possession of a firearm by a convicted felon (Count Seven). Complainant moved to suppress certain evidence obtained as a result of the search of his residence, raising various challenges to the affidavit in support of the search warrant, and after a hearing, the Subject Judge denied the motion to suppress.

The case proceeded to trial in March 2008, and Complainant was represented by _____. On March 20, 2008, during its deliberations, the jury submitted a note stating that it was unable to reach a unanimous decision, and the Subject Judge gave the jury an Allen charge.¹ The jury then submitted a second note stating that it was unable to reach a verdict. After that, counsel for the government stated, “It appears it’s a hung jury, and we just ask for the trial to be rescheduled at the appropriate time,” and _____ agreed. The Subject Judge stated that he did not feel that the jury had “been at it long enough,” and he asked the jurors to continue to deliberate. The jury later returned a

¹ See Allen v. United States, 164 U.S. 492, 17 S. Ct. 154 (1896).

verdict finding Complainant guilty as to Counts One, Two, and Seven and not guilty as to Counts Four, Five, and Six. The Subject Judge entered a judgment of acquittal as to Counts Four, Five, and Six and a judgment of conviction on the other counts.

In June 2008 the sentence hearing was held before the Subject Judge, and Complainant was represented by _____ and another attorney. At one point in the hearing, the Subject Judge stated, "And, quite frankly, I was somewhat surprised at the return of the jury's verdict with regard to the use of a firearm. Could not have been more clear to me. I don't know what to think of it, other than a jury compromise, because they did struggle to come to a -- a verdict." The Subject Judge sentenced Complainant to a total term of 480 months of imprisonment. This Court affirmed Complainant's convictions and sentences on direct appeal, holding, among other things, that the district court had not erred in giving the Allen charge and directing the jury to continue deliberating.

In January 2011 Complainant filed a 28 U.S.C. § 2255 motion, raising various challenges to his convictions and sentences, including a claim that the Subject Judge gave improper Allen charges and improperly sentenced Complainant as an armed career criminal. In October 2013 Complainant filed a pro se motion to recuse the Subject Judge, arguing in part that his claims that the Subject Judge gave an improper Allen charge and improperly sentenced Complainant as an armed career criminal would cause the Subject Judge's impartiality to be reasonably questioned. Complainant also asserted that the Subject Judge had "improperly addressed the jury pre and post verdict" and that he had berated the jury for its verdict. Complainant attached an affidavit in which he stated that about a week after the trial, a juror contacted Complainant's attorney _____ and informed him that the Subject Judge had entered into the jury room and had criticized Complainant and it appeared that the Subject Judge "had a personal interest in this case because of the way he berated members of the jury for finding [him] not guilty on three (3) of the six (6) counts." The affidavit also stated that the juror "wished to remain anonymous" because of "what he witnessed."

The government filed a response to the motion to recuse. In November 2013 the Subject Judge denied the motion to recuse, finding that Complainant's allegations were based on "double hearsay" and "otherwise unsupported," such that they were not sufficient to meet the standard for recusal.

Complainant then filed a reply to the government's response, noting that he was attaching a letter from attorney _____ "establishing the jury member revealing the unethical conduct." Complainant attached a letter from _____ to Complainant's _____, dated February 19, 2010, which was nearly two years after the jury verdict. In the letter, _____ stated:

The juror who spoke to me after the verdict in _____ case only spoke to _____ and I on the condition that he remain anonymous. He met _____ and I at a local restaurant along with his wife and we discussed jury deliberation and [the Subject Judge's] involvement at length. He told us that [the Subject Judge] entered into the jury room wearing street clothes after their verdict had been reached and berated them for finding _____ not guilty on three (3) of the six (6) counts he was charged with. I spoke with a personal friend of mine who is a federal magistrate and he acknowledged immediately that [the Subject Judge] has a reputation for speaking to the jury after their verdict and giving them grief if they don't rule the way he thinks that they should have. The problem is that this practice, however unethical or demeaning as it may be, is not illegal in nature because the jury has already reached the verdict and so the case is technically over at that point.

Complainant also filed a motion for reconsideration of the order denying the motion to recuse, stating that the court denied the motion before receiving his reply, which he asserted contained additional evidence substantiating his claim. He again attached the February 19, 2010 letter from _____.

In December 2013 the magistrate judge issued an order and report, recommending that Complainant's § 2255 motion be denied, generally finding that he had failed to establish that he was entitled to relief on his claims. On the same day, the Subject Judge set for a hearing Complainant's motion for reconsideration of the order denying his motion to recuse. Complainant filed objections to the magistrate judge's report and recommendation.²

At a January 2014 hearing before the Subject Judge on the motion to reconsider the denial of the motion to recuse, Complainant called attorney _____ as a witness, and he testified as follows. A juror contacted him after the trial was over and told him that, after the verdict, the Subject Judge had entered the jury room and berated the jury for its not guilty verdicts. The juror did not use "specific language," but told _____ that the Subject Judge said that "the Court was not happy with their decision." Complainant asked _____ if he had been told that the Subject Judge had called Complainant a "son-of-a-bitch," and _____ testified that he did not remember being told that. _____ testified that he had asked a hypothetical of a friend of his who was a federal magistrate judge, and the magistrate judge said "he thought it was [the Subject

² Also in December 2013 Complainant filed with this Court a petition for writ of mandamus in which he sought the recusal of the Subject Judge based on the allegation that the judge had entered into the jury room and berated the jurors for finding Complainant not guilty as to certain counts. He also filed a motion to proceed in forma pauperis (IFP). In February 2014 this Court denied the IFP motion because the mandamus petition was frivolous and Complainant had an adequate alternative remedy to the relief he sought. Complainant filed a motion for voluntary dismissal, and his petition was clerically dismissed.

Judge], it sounded like [the Subject Judge].” _____ responded in the affirmative to a question of whether the magistrate judge had acknowledged that the Subject Judge had a “reputation for giving juries grief if they did not rule the way that he thinks they should have.” _____ testified that he did not know the juror’s name, the juror “never gave his name,” the juror wanted to remain anonymous, and _____ was “kind of skeptical about the guy.” He reiterated that the juror “never gave me his name,” and noted that “he was the lone holdout out of the rest of the jurors.” _____ took his secretary with him to the meeting with the juror. _____ noted that the juror had stated that the Subject Judge was in street clothes when he “berated” the jury.

On cross-examination, _____ testified that the first time he put those allegations in writing was in his February 19, 2010 letter to Complainant’s _____ (two years after the verdict). The juror had contacted him about a week after the verdict, before the sentence hearing, and _____ could not remember whether he told his co-counsel about it in connection with the sentence hearing, but he was sure that he would have done so. He testified that he thought it was reasonable for judges to interact with juries, and he did not think the Subject Judge’s rulings were the result of personal bias against Complainant. _____ did not recall specific words the juror used, and stated, “Basically, he said he chewed them out.” The magistrate judge with whom _____ had spoken about the matter was Judge _____, and Judge _____ had interrupted _____ hypothetical question by stating: “[T]hat sounds like [the Subject Judge].” _____ did not report what he had been told by the juror because he did not “feel it was [his] job to report it.”

At a continuation of the hearing in February 2014 the government called _____, a retired United States magistrate judge in the district, and he testified as follows. He had known attorney _____ for 15 or more years and they were “casual friends.” He recalled _____ describing a conversation with a former juror regarding the Subject Judge’s alleged comments to the jury after a verdict. When asked what his response was, Judge _____ testified, “Word for word, I can’t say. Most likely, as best I remember, I said something along the lines of: [the Subject Judge] is known to be tough, which is unfortunate because what I should have said was: I can’t imagine him ever doing that, but — [.]”

When asked if he had said that the Subject Judge had a reputation for speaking with jurors after their verdict and “giving them grief” if they had not returned the verdict he thought they should have, Judge _____ stated, “I did not say that. In all honesty, I don’t know whether [the Subject Judge] even speaks to jurors after verdicts. I did when I was on the bench.” He testified that it was a common practice for judges to speak with members of a jury after they had rendered a verdict and that when he was serving as a judge on jury trials, he “would go back and thank [the jurors] for their service” after the verdict. He explained that jurors “would invariably ask if they had made the right decision, and I would invariably say, There is evidence to support the decision you made.

And . . . I would never endorse or contradict what they did, because that was their job, not mine.”

Judge _____ testified that he “did not say what [_____] thought” he had said. When asked if he had ever known the Subject Judge to have a pervasive personal bias against litigants in a case assigned to him, he testified: “No, not ever.”

On cross-examination, Judge _____ stated, “If [_____] remembers it differently than I do because he thought I was endorsing his position, that’s unfortunate, but I don’t — didn’t say what he says I said.” He testified: “I’ve never heard that [the Subject Judge] berates jurors or does anything of that nature, and there is no reason in the world why I would have said that. No reason.”

After hearing argument from the parties, the Subject Judge first found that to the extent Complainant’s motion to recuse was based on claims pertaining to the court’s performance of judicial functions, the claims were not sufficient for recusal. With respect to the claim that he improperly addressed the jury, the Subject Judge first found that there was no evidence of “any prediscussion with the jury.” The Subject Judge discussed _____ testimony, indicating that he found certain statements were questionable. The Subject Judge then stated:

And then I don’t know how you can listen to Judge _____ today and reach any other conclusion than _____ letter is simply not a legitimate statement of what took place in your behalf, either with the juror, then when he goes on to try to embellish it with some statement from Judge _____ that . . . is just impossible to accept. There’s no way in the world that he could take even what Judge _____ says he may have said and come up with the fact that he claims to be stating in his letter. That just is beyond belief.

The Subject Judge denied the motion to recuse, concluding that Complainant had not presented sufficient evidentiary support to demonstrate bias and that no reasonable person, having heard all of the evidence, would conclude that bias existed. After that, the Subject Judge stated:

[The Subject Judge]: I can tell you now that we’re all done and I’ve made the ruling that there will be no recusal, I want to tell you that did not happen. Period. Zero. Nothing like that —

[Complainant]: Yes, sir.

[The Subject Judge]: — ever, ever took place in that jury room or any other jury room. I do just as Judge _____ says: Thank the people for their service, answer those questions that I can, never make any comment about the verdict because that is theirs to do. It's not a matter of whether I agree or disagree with that verdict.

After the hearing, the Subject Judge entered an order denying Complainant's motion for reconsideration of his motion to recuse. In March 2014 the Subject Judge entered an order adopting the magistrate judge's report and recommendation, denying Complainant's § 2255 motion, and ruling on various motions that Complainant had filed. Complainant then filed, among other things, a motion to alter or amend the judgment and a notice of appeal.

In May 2015, in appeal _____, this Court affirmed the Subject Judge's denial of Complainant's motions to recuse and for reconsideration. This Court held that the Subject Judge did not abuse his discretion in denying the motion to recuse because Complainant's argument about recusal stemmed from the Subject Judge's rulings at trial and the sentence hearing, which did not establish bias or prejudice. This Court also stated, "And [Complainant's] allegations of personal bias or prejudice depend on double hearsay — that is, [Complainant's] report about what his trial attorney said about what an anonymous juror said. 'A judge should not recuse himself based upon unsupported, irrational, or tenuous allegations,' and [Complainant's] allegations were exactly that." (quoting Giles v. Garwood, 853 F.2d 876, 878 (11th Cir. 1988)). This Court held that the Subject Judge did not abuse his discretion in denying Complainant's motion for reconsideration because he had raised an argument and presented evidence in that motion that could have been raised and presented in the original motion. Complainant later filed a motion to take "judicial notice" of certain facts, which this Court denied.

After that, the Subject Judge entered orders denying various motions that Complainant had filed, including the motion to alter or amend the judgment. Complainant filed a notice of appeal as to the orders denying his § 2255 motion and motion to alter or amend the judgment. This Court denied Complainant's motion for a certificate of appealability because he had failed to make the requisite showing. Complainant filed a motion for reconsideration, which was denied.

The record shows that in November 2015 Complainant filed with this Court a petition for writ of mandamus seeking to compel the district court to adhere to certain case law and requesting that this Court assign the case to another district judge. In January 2016 this Court denied the petition for writ of mandamus, generally concluding that Complainant was not entitled to the requested relief. Complainant filed a motion for reconsideration, which was denied.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that in his criminal case, the Subject Judge “entered into the Jury room . . . to Berate and cuss the Jurors out.” He states that the transcript of the January 2014 evidentiary hearing shows that attorney _____ “confirmed that a member of the jury contacted him . . . to reveal that [the Subject Judge] berated the jury for finding not guilty verdicts The jury member conveyed that the judge chewed them out.” Complainant asserts that the Subject Judge “strategically impeded the outside investigation into obtaining additional evidence into this matter and corrupted the proceedings before his court during and after this hearing . . . , destroying the integrity of the judicial system.”

Complainant contends that the Subject Judge “has established a pattern and practice of arbitrarily and deliberately disregarding prevailing legal standards and thereby causing expense and delay to the litigant and is misconduct.” Complainant asserts that he has “created an indisputable record” that the Subject Judge has “arbitrarily and deliberately disregarded the law in his conspiratorial effort with the oppos[ing] party to keep” Complainant incarcerated. He states that the Subject Judge sentenced him to 40 years of imprisonment, when Count Two had a statutory maximum of 5 years, and that despite being aware of this “jurisdictional, separation of powers violation,” the Subject Judge continued “his policy of suppression and obstruction” of Complainant’s constitutional rights.

Complainant contends that the Subject Judge “has conspired to rule in favor of the opposing party to keep hidden and suppressed” an egregious violation of the Fourth Amendment. He alleges that the Subject Judge used his “vast powers” to hide constitutional violations, ignored Complainant, ignored the Supreme Court’s decision in Kimmelman v. Morrison, 477 U.S. 365, 106 S. Ct. 2574 (1986), “unequivocally ruled for personal and improper reasons,” and exhibited “willful indifference to the law.” Complainant states that the “indifference of his court” can be seen by comparing Complainant’s case to _____, because both cases have the same procedural postures, same claims, and same United States Attorneys, “but yield different standards of review.” Finally, Complainant takes issue with the performance of one of his attorneys.

Complainant attached to his Complaint a document titled “Amicus Curiae Information” in which he generally argues that the Subject Judge and the magistrate judge failed to comply with the rule of law and the Kimmelman decision. Complainant also attached a request to have his Complaint of Judicial Misconduct or Disability transferred to another “judicial conference,” contending that in appeal _____, he presented the claim that the Subject Judge entered the jury room and berated the jurors, and this Court, “due to the deliberate changing of and misapprehension of the claims as presented in that appeal . . . has given the appearance that they intend to countenance and cover up” the Subject Judge’s conduct. He also states that his request is “further

supported” by a later appeal where he presented “indisputable evidence” that the Subject Judge was guilty of “Judicial anarchy,” but this Court misapprehended and ignored the evidence. Complainant asserts that this Court “as an institution has given the appearance to deliberately interfere with the effective and expeditious administration of justice and business of the courts.”³

Allegations Directly Related to the Merits of Decisions and Procedural Rulings

Rule 3(h)(1) provides that cognizable misconduct “is conduct prejudicial to the effective and expeditious administration of the business of the courts.” JCDR 3(h)(1). Cognizable misconduct does not include “an allegation that is directly related to the merits of a decision or procedural ruling.” JCDR 3(h)(3)(A). The Rule provides that “[a]n allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.” *Id.* The “Commentary on Rule 3” states in part:

Rule 3(h)(3)(A) tracks the Act, 28 U.S.C. § 352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations “[d]irectly related to the merits of a decision or procedural ruling.” This exclusion preserves the independence of judges in the exercise of judicial power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge’s ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

The bulk of Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, and orders entered in the case, and those allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Complainant provides no credible facts or evidence in support of his allegations that the Subject Judge disregarded the law, conspired against Complainant, suppressed or obstructed Complainant’s rights, acted with a personal or improper motive, or otherwise engaged in misconduct.

Those allegations are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B), and that part of the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, that part of the Complaint is **DISMISSED**.

³ Complainant’s request to transfer this Complaint matter to another jurisdiction is **DENIED**.

Complainant also alleges that the Subject Judge “berated the jury for finding not guilty verdicts.” Under JCDR 3(h)(1)(D), cognizable misconduct includes “treating litigants, attorneys, or others in a demonstrably egregious and hostile manner.” About Complainant’s allegation that the Subject Judge berated the jury, I conducted a limited inquiry.

Limited Inquiry under JCDR 11(b)

Rule 11(a) requires the Chief Judge to review complaints of judicial misconduct and determine what action should be taken on them. See JCDR 11(a). Rule 11(b) provides that: “In determining what action to take under Rule 11(a), the chief judge may conduct a limited inquiry.” JCDR 11(b); see also 28 U.S.C. § 352(a) (providing that “[t]he chief judge . . . may also communicate orally or in writing with . . . any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents”). In conducting that inquiry, the Chief Judge “must not determine any reasonably disputed issue.” JCDR 11(b). Dismissal of a complaint is appropriate, however, “when a limited inquiry . . . demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence.” 28 U.S.C. § 352(b)(1)(B).

The Commentary on Rule 11(b) explains what constitutes a “reasonably disputed issue”:

[A] matter is not “reasonably” in dispute if a limited inquiry shows that the allegations do not constitute misconduct or disability, that they lack any reliable factual foundation, or that they are conclusively refuted by objective evidence.

In conducting a limited inquiry under subsection (b), the chief judge must avoid determinations of reasonably disputed issues, including reasonably disputed issues as to whether the facts alleged constitute misconduct or disability, which are ordinarily left to the judicial council and its special committee. An allegation of fact is ordinarily not “refuted” simply because the subject judge denies it. The limited inquiry must reveal something more in the way of refutation before it is appropriate to dismiss a complaint that is otherwise cognizable. If it is the complainant’s word against the subject judge’s—in other words, there is simply no other significant evidence of what happened or of the complainant’s unreliability—then there must be a special-committee investigation. Such a credibility issue is a matter “reasonably in dispute” within the meaning of the Act.

However, dismissal following a limited inquiry may occur when a complaint refers to transcripts or to witnesses and the chief judge

determines that the transcripts and witnesses all support the subject judge. Breyer Committee Report, 239 F.R.D. at 243. For example, consider a complaint alleging that the subject judge said X, and the complaint mentions, or it is independently clear, that five people may have heard what the judge said. Id. The chief judge is told by the subject judge and one witness that the judge did not say X, and the chief judge dismisses the complaint without questioning the other four possible witnesses. Id. In this example, the matter remains reasonably in dispute. If all five witnesses say the subject judge did not say X, dismissal is appropriate, but if potential witnesses who are reasonably accessible have not been questioned, then the matter remains reasonably in dispute. Id.

JCDR 11 cmt. The Commentary also instructs that “dismissal following a limited inquiry may occur when a complaint refers to transcripts or to witnesses and the chief judge determines that the transcripts and witnesses all support the subject judge.” Id.; see also 28 U.S.C. § 352(b)(1)(B) (noting that dismissal of a complaint is appropriate “when a limited inquiry . . . demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence”).

Complainant’s criminal trial was held more than eight years ago. I conducted a limited inquiry into Complainant’s allegation that after the jury returned its verdict, the Subject Judge went to the jury room and berated the jurors for finding Complainant not guilty on three counts. In conducting that inquiry, I obtained from the district court’s clerk’s office a list of the names of the twelve jurors who served on Complainant’s jury. The list included the last known addresses and phone numbers of the jurors (from the time of the trial).

I wrote a letter to every one of the twelve jurors explaining that as Chief Judge of the federal appeals court that covers Alabama, Florida, and Georgia, one of my administrative duties is to look into complaints that are made concerning alleged conduct of judicial officers. My letter explained that I needed to speak with them on the telephone about a trial that occurred about eight years ago in which they had served as a member of the jury. It also explained that I was inquiring about some statements that may, or may not, have been made after the jury had returned its verdict and before the jurors had left the courthouse and that I needed to ask whether they had heard those statements. I provided my phone number and asked them to call me. For those former jurors who did not respond to my letter by calling me, I tried to call them at the last known phone numbers that the jury records listed for them. As a result of my investigation, I was able to reach and interview by telephone six of the twelve jurors. See JCDR 11 cmt. (explaining that all “potential witnesses who are reasonably accessible” should be questioned).

Every one of the six jurors I was able to contact and interview recalled the Subject Judge coming into the jury room after the verdict had been returned and the jurors had been excused from service. Every one of them recalled that the Subject Judge thanked them for their service and was courteous to them. One juror stated that the Subject Judge had said they did a good job; another said he had made her feel better about her service on the jury; one said that the Subject Judge was just being nice to them by coming to talk with them; and more than one of them said that they left the courthouse feeling very impressed with the Subject Judge. All six of the juror witnesses that I was able to locate and interview denied that the judge had criticized them or their verdict, much less berated them. None recalled him doing or saying anything improper to them.

Because all of the potential witnesses who are reasonably accessible have been questioned and all of them say that the Subject Judge did not criticize or berate the jury, the limited inquiry has “demonstrate[d] that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence.” 28 U.S.C. § 352(b)(1)(B); JCDR 11(b) cmt. For these reasons, the Complaint is **DISMISSED**.

A handwritten signature in black ink, appearing to read "J. H. Kramer", is written over a horizontal line.

Chief Judge