

Revised Rules Will Not Stop Judges From Systematically Dismissing Complaints Against Them

Now judges judging judges can suspend or modify their application and not disclose information even to a prosecutor or a grand jury!

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The Committee on Judicial Conduct and Disability announced its Revised Rules for implementing the Judicial Conduct and Disability Act as well as its readiness to submit them for adoption to the highest policy-making body of the Federal Judiciary, the Judicial Conference of the U.S., whose presiding officer is the Chief Justice of the Supreme Court.

The Act allows anybody to file a complaint against a federal judge on grounds such as the judge's abuse of judicial power, demeanor, prejudice, bias, conflict of interests, bribery, corruption, undue decisional delay, incompetence, neglect, and mental or physical disability. Complaints must be filed with the judge's chief circuit judge, who may appoint a special committee of judges to investigate the complaint and submit a report to the circuit's judicial council of judges, which in turn may refer it to their peers in the Committee, whose decision may be reviewed by the Conference, which is also made up of judges.

This inherently biased system where judges judge other judges, who are their colleagues and may be their longtime friends, has been abused by judges to self-exempt from any discipline. Thus, the official statistics on their handling of those complaints show that in the 10-year period 1997-2006 there were filed 7,462 complaints, but judges only set up 7 special investigative committees and disciplined only 9 of their peers, thus dismissing systematically 99.88% of all complaints!

Members of Congress expressed their dissatisfaction with the judges' dismissing complaints to protect each other and in effect abrogating the Act. They introduced H.R. 5219 and S. 2678 to enact the Judicial Transparency and Ethics Enhancement Act, which would establish the Office of Inspector General for the Judicial Branch. To ward off any Congressional supervision, the Late Chief Justice Rehnquist set up a committee chaired by Associate Justice Breyer to study the implementation of the Judicial Conduct and Disability Act; then Chief Justice Roberts requested that the Judicial Conduct and Disability Committee revise the current complaint-processing rules in order to implement the recommendations of the Breyer Report.

When the Committee released its Draft Rules for public comment it made its announcement on only one little known website, held a single public hearing in an out of the way district court, and did not make public the comments that it received. Just before the holidays, on December 21, it released its Revised Rules and allowed just two weeks to submit comments, thus confirming its determination not to subject its Rules to public scrutiny. The reason for this is that its Revised Rules make it easier for judges to take care of their own than the Draft or the current rules.

Indeed, the Revised Rules now allow chief circuit judges, special committees, judicial councils, the Committee, and the Conference to suspend or modify the rules in any case, thereby making them illusory. They strip the Committee's own commentaries on its Rules of the status as "authoritative interpretations of the Rules" that they had in the Draft Rules just as they deprive the Code of Conduct for U.S. Judges of any value as a source of guidance in complaint proceedings. They even pretend to authorize special committees not to disclose some information about an investigated judge to a prosecutor or grand jury. The Rules show how judges will continue to protect their exercise of judicial power subject to no control: absolute power that corrupts absolutely. How would you like judges who deem themselves above the law because they can engage in misconduct risklessly disposing of your rights to your property, your liberty, and even your life?

See http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf.