

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-11-90001

**A Charge of Judicial  
Misconduct or Disability**

Before: SENTELLE, Chief Judge of the Circuit

## ORDER

Upon consideration of the complaint herein, filed against a Judge of the United States District Court for the District of Columbia pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 and the Judicial Conference of the United States Rules for Judicial-Conduct and Judicial-Disability Proceedings, it is

**ORDERED**, for the reasons stated in the attached Memorandum, that the complaint be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B).

The Clerk is directed to send copies of this Order and accompanying Memorandum to complainant, the subject judge, and the Judicial Conference Committee on Judicial Conduct and Disability. See 28 U.S.C. § 352(b); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(g)(2).



David B. Sentelle, Chief Judge  
District of Columbia Circuit

Date: \_\_\_\_\_

1/20/11

## MEMORANDUM

Complainant alleges that a judge from the United States District Court for the District of Columbia has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, complainant alleges that the subject judge upheld the plea agreement in complainant's underlying case "despite the fact the Court knew it was in violation of [complainant's] substantive rights."

Complainant also asserts that the "unsealing of the case . . . resulted in the life endangerment of the [complainant] who was in fact harmed due to the inappropriate handling of the Courts." Complainant's allegations, however, do not provide any grounds for action against the subject judge.

Complainant first alleges that the subject judge erred in accepting complainant's plea agreement. This allegation, however, is a direct challenge to the merits of the subject judge's underlying sentencing order and the orders denying reconsideration and leave to file a 2255 motion. The appropriate avenue to obtain relief from alleged erroneous rulings, however, is not a judicial misconduct proceeding. See 28 U.S.C. § 352(b)(1)(A)(ii) (providing for dismissal of a complaint that is "directly related to the merits of a decision or procedural ruling"); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B) ("A complaint must be dismissed in whole or in part to the extent that the chief judge concludes that the complaint . . . is directly related to the merits of a decision or procedural ruling.").

Complainant's second allegation is that the subject judge's unsealing of the case put complainant's life in danger. The case was unsealed by a different judge, however, and not by the subject judge. Moreover, the case was unsealed pursuant to an oral

motion which was granted by the court. This challenge to the court's order unsealing the case, therefore, is directly related to the merits of the procedural order and thus is not appropriate for review in a judicial misconduct proceeding. *Id.*

Thus, because the allegations are directly related to the merits of the subject judge's rulings, the complaint must be dismissed.<sup>1</sup>

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<sup>1</sup> Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL -DISABILITY PROCEEDINGS 18(a), complainant may file a petition for review by the Judicial Council for the District of Columbia Circuit. Any petition must be filed in the Office of the Clerk of the Court of Appeals within 35 days of the date of the Clerk's letter transmitting the dismissal Order and this Memorandum. *Id.* R. 18(b).