

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-11-90012

11-90013

11-90014

11-90015

**A Charge of Judicial
Misconduct or Disability**

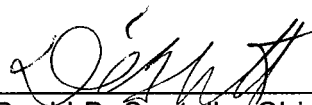
Before: SENTELLE, Chief Judge of the Circuit

ORDER

Upon consideration of the complaint herein, filed against a Judge of the United States District Court for the District of Columbia and three Judges of the United States Court of Appeals for the District of Columbia Circuit 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) & (iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B) & (D).

The Clerk is directed to send copies of this Order and accompanying Memorandum to complainant, the subject judges, 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: 5/31/11

MEMORANDUM

Complainant alleges that a judge from the United States District Court for the District of Columbia and three judges from the United States Court of Appeals for the District of Columbia Circuit have engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, complainant alleges that the subject appellate judges failed to sign the order granting the motion for summary affirmance. To the extent complainant is alleging wrongdoing on the part of the district court judge, it appears complainant is asserting that the subject district court judge erred in granting a motion to dismiss and failed to respond to complainant's motion of May 26, 2010. Complainant's allegations, however, do not provide any grounds for action against the subject judges.

Complainant's allegation that the subject appellate judges failed to properly sign the order granting a motion for summary affirmance is without merit. Neither the court's rules nor any statute require that the court's orders be signed by the judges. Moreover, with the introduction of electronic case filing, the official court record now consists of all filings and orders entered on the electronic docket. The court's order entered April 19, 2011 is an official court order and it need not contain the actual signatures of the judges who ruled on the motion. This allegation, therefore, lacks any evidence to raise an inference that misconduct has occurred. See U.S.C. 352(b)(1)(A)(iii) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(D).

Complainant's allegation against the subject district court judge is also without merit. To the extent complainant is asserting that the subject district court judge erred when the motion to dismiss was granted, complainant is directly challenging

the merits of the subject judge's ruling. The appropriate avenue to obtain relief from this alleged erroneous ruling, 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 has already challenged the dismissal of the case before the Court of Appeals.

Complainant also appears to be asserting that the subject district court judge failed to respond to a motion filed by the complainant. A review of the docket, however, reflects that the motion was entered on the docket and considered as the first response to the motion to dismiss and was disposed of when the subject district court judge granted the motion to dismiss. The allegation against the subject district court judge, therefore, lacks any evidence to raise an inference that misconduct has occurred. *Id.*

Thus, because the allegations either lack sufficient evidence to infer that misconduct has occurred or are directly related to the merits of a decision, the complaint must be dismissed.¹

¹ 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).