

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-12-90001
DC-12-90002
DC-12-90003
DC-12-90004

**A Charge of Judicial
Misconduct or Disability**

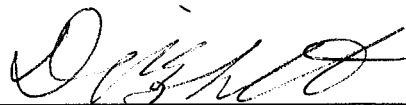
Before: SENTELLE, Chief Judge of the Circuit

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); 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 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: 11/17/12

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 D.C. Circuit have engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, complainant alleges that the subject district judge improperly dismissed complainant's suit as being barred by res judicata and failed to properly interpret the law. Complainant also asserts that the subject appellate judges "would like to avoid this criminal matter, and knowingly and intentional[ly] avoid the reason for appeal." Complainant's allegations, however, do not provide any grounds for action against the subject judges.

Complainant's allegation that the subject district judge failed to properly interpret the law and wrongly dismissed complainant's underlying case appears to be a challenge to the merits of the subject judge's decision. 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 did challenge the dismissal of the case before the Court of Appeals, which affirmed the district court's order. Complainant has also filed a petition for rehearing with the Court of Appeals which is pending.

Complainant also alleges that the subject appellate judges knowingly and

intentionally avoided the reason for appeal. Although the complaint is a little unclear, it appears that complainant is really challenging the subject judges' decision to affirm the district court's disposition of the case. As previously noted, however, the appropriate avenue to obtain relief from this alleged erroneous ruling is not a judicial misconduct proceeding. *Id.*

Thus, because the allegations are directly related to the merits of the subject judges' decisions, 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).