The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-12-90015
No. DC-12-90016
No. DC-12-90017

A Charge of Judicial Misconduct or Disability

Before: SENTELLE, Chief Judge of the Circuit

ORDER

Upon consideration of the complaint herein, filed against three Judges 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) & (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: 5/14/12

MEMORANDUM

Complainant alleges that three judges from the United States District Court have engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, complainant alleges that the subject judges have used their "judge's office to obtain special treatment for defendants." Complainant's allegations, however, do not provide any grounds for action against the subject judges.

Although the exact nature of the complaint is unclear, it appears that complainant is taking issue with the fact that the case was reassigned from the subject judge in complaint No. DC-12-90017 to the subject judge in complaint No. DC-12-90015 and then on to the third subject judge in No. DC-12-90016. A review of the docket reveals that complainant's case was reassigned in the ordinary course of court business and complainant has failed to provide any evidence to demonstrate that the reassignment of the case was a result of misconduct. Thus, this allegation 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).

Moreover, complainant does not appear to make any specific allegations of wrongdoing on the part of the subject judges in Nos. DC-12-90015 and DC-12-90017. Complainant does state that the subject judge in No. DC-12-90016 denied complainant leave to file an amended motion for recusal but again fails to provide any evidence of wrongdoing. Accordingly, these allegations must also be dismissed as lacking sufficient evidence to raise an inference that misconduct has occurred. *Id.*

Complainant also alleges that the subject judge in No. DC-12-90016 "deliberately

or knowingly and arbitrarily disregard[ed] the legal standard causing delay in justice." Complainant cites to the subject judge's memorandum and order granting the defendants' motion to dismiss. Complainant also argues that the subject judge gave special treatment to the defendants as evidenced by the fact that the subject judge first denied one defendant's motion to stay as moot but subsequently granted their motion to extend time. These arguments, however, appear to be challenges to the merits of the subject judge's decisions. The appropriate avenue to obtain relief from these 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 has already filed a notice of appeal with the Court of Appeals challenging these decisions.

Because complainant's allegations either lacks sufficient evidence to raise an inference that misconduct has occurred or are related to the merits of a subject judge's decisions, the complaint must be dismissed.[1]

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[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).