

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-12-90040

**A Charge of Judicial
Misconduct or Disability**

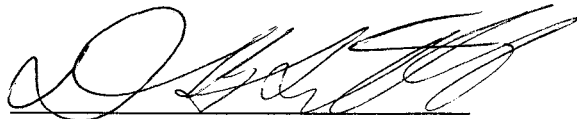
Before: SENTELLE, Chief Judge of the Circuit

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) & (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 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: 9/12/12

M E M O R A N D U M

Complainant alleges that a judge from the United States District Court has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, complainant alleges that the subject judge “makes sure the Clerk assigns [the subject judge] every [one of complainant’s] case[s] despite what local Rule 403(a) says.” Complainant also argues that the subject judge has disregarded an order of the Maryland Court of Special Appeals and an order from the U.S. Court of Appeals for the D.C. Circuit. Complainant’s allegations, however, do not provide any grounds for action against the subject judge.

Complainant’s first allegation is that the subject judge has improperly had all of complainant’s cases assigned to the subject judge. Pursuant to the Rules of the District Court for the District of Columbia, however, “a case filed by a pro se litigant with a prior case pending shall be deemed related and assigned to the judge having the earliest case.” LcvR 40.5(a)(3). Therefore, when complainant filed subsequent cases they were automatically assigned to the subject judge who had a prior pending case filed by complainant. This allegation, therefore, lacks any specific evidence to demonstrate that the subject judge acted improperly and must be dismissed. 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 also asserts that the subject judge has failed to follow an order of the Maryland Court of Special Appeals and the U.S. Court of Appeals for the District of Columbia Circuit, improperly dismissed complainant’s case, and interfered with the Judicial Panel on Multidistrict Litigation’s efforts to transfer complainant’s case to

California. It appears, however, that these challenges are more appropriately categorized as direct challenges to the subject judge's order concluding that complainant's claims were precluded. The appropriate avenue to obtain relief from the 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."). It should be noted that complainant has already filed a notice of appeal of the subject judge's order with the U.S. Court of Appeals for the D.C. Circuit.

Because complainant's allegations either lack sufficient evidence to raise an inference that misconduct has occurred or are directly related to the merits of the subject judge's 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).