

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-12-90041

**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).

  
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David B. Sentellé, Chief Judge  
District of Columbia Circuit

Date: 9/28/12

## 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 “failed to implement the Supremacy Clause of the United States” and issued an order “with the intent to deprive the complainant of fundamental rights protected by that clause.”

Complainant is also challenging the subject judge’s characterization of the underlying complaint as “verbose but mostly incoherent.” Complainant also argues that the subject judge failed to legibly sign an order and thus acted unconstitutionally.

Complainant further asserts that because the subject judge was appointed by President Obama, the subject judge had a conflict of interest and should not have considered complainant’s case. Complainant’s allegations, however, do not provide any grounds for action against the subject judge.

Several of complainant’s arguments appear to be challenges to the merits of the subject judge’s dismissal order. Complainant alleges that the subject judge failed to implement the Supremacy Clause of the United States and mischaracterized the underlying complaint as verbose and incoherent. These challenges, however, are direct challenges to the substance of the subject judge’s order dismissing the complainant. 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.

Complainant also asserts that the subject judge issued an order with the intention of depriving complainant of rights protected by the Supremacy Clause and acted unconstitutionally by failing to legibly sign the dismissal order. These allegations, however, lack sufficient evidence to demonstrate that the subject judge acted improperly. Complainant failed to provide any specific evidence demonstrating that the subject judge intended to deprive complainant’s rights. In addition, the fact that complainant was unable to read the subject judge’s signature does not demonstrate wrongdoing on the part of the subject judge. Accordingly, these allegations 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 claims that because the subject judge was appointed by President Obama the subject judge had a conflict of interest and should not have considered the underlying case. The fact that the subject judge was appointed by President Obama does not constitute evidence of the subject judge’s bias, as bias cannot be demonstrated based only on a judge’s supposed political affiliations and connections to the President that appointed the subject judge. *Karim-Pananhi v. U.S. Congress*, 105 Fed. Appx. 270, 274-75 (D.C. Cir. 2004). This is true even when the President who nominated the judge is a party to the litigation. *In re Executive Office of the President*, 215 F.3d 25, 25 (D.C. Cir. 2000) (internal citation omitted) (“[h]earing a

case involving the conduct of the President who appointed me will not ‘create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that [my] ability to carry out judicial responsibilities with integrity, impartiality, and competence [would be] impaired.’”). Here complainant has failed to allege any facts or evidence that would cause the average person to reasonably question the subject judge’s impartiality. The bias allegation, therefore, lacks any evidence to raise an inference that judicial 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).

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