

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90002

A Charge of Judicial Misconduct or Disability

Before: GARLAND, 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)(C) & (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).



Merrick B. Garland, Chief Judge
District of Columbia Circuit

Date: 2-27-13

MEMORANDUM

Complainant alleges that a judge of 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 had a personal bias against complainant and had improper contacts with the attorneys for the defendants in the underlying case. As evidence of the bias and improper contacts, complainant asserts that the subject judge failed to serve the summons on the defendants, repeatedly ruled in favor of the defendants, failed to rule on two of complainant's motions, improperly acted pursuant to "foreign law," and "took advantage of [complainant's] case . . . for partisan and non-partisan political activities and gains of the Defendants." For the following reasons, complainant's allegations do not warrant action against the subject judge.

The complainant's allegations that the subject judge failed to issue summons and failed to rule on motions are without merit. A review of the district court docket in the underlying case reflects that summons were issued and that the motions were not ruled on because the case was dismissed without prejudice after complainant failed to respond to a motion to dismiss. Furthermore, the fact that the subject judge ruled against complainant is not, in and of itself, evidence of bias. The complainant has also failed to provide any evidence to demonstrate that the subject judge acted with a partisan motive in an effort to favor the defendants. And, complainant has failed to provide any evidence that the subject judge had improper contacts with the attorneys for the defendants in the underlying case. All of these claims fail to allege any facts or evidence that would cause the average person to reasonably question the subject

judge's impartiality and thus do not 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).

Complainant also asserts that the subject judge erred by “impos[ing] and exercis[ing] foreign law.” Although the nature of the allegation is unclear, it appears that this argument is more appropriately categorized as a direct challenge to the subject judge’s decisions. 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.”).

Thus, 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 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).