

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90003

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)(iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(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: 3/4/13

MEMORANDUM

The 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, the complainant alleges that the subject judge conspired with a staff attorney to assign the complainant's case to the judge and that the judge and staff attorney had improper ex parte contacts with the district court to which the case was later transferred. The complainant further asserts that the subject judge had improper biases and conflicts of interest, both personal and financial, that the judge should have disclosed. The complainant also contends that the filing of his underlying civil complaint was improperly delayed. Finally, the complainant argues that the subject judge improperly instructed the U.S. Marshal's Service to harass and intimidate the complainant. For the following reasons, complainant's allegations do not warrant action against the subject judge.

The complainant's allegation that the subject judge conspired with a staff attorney so that the judge could be assigned complainant's case is unsupported. District Court Local Rule 40.3 establishes random case assignment procedures in the District Court to ensure against judges selecting their cases, and the complainant has failed to provide any evidence that the ordinary case assignment procedures were not followed. Similarly, the complainant has failed to provide any evidence that the judge and the staff attorney had improper contacts with the court to which the case was ultimately transferred.

The facts that the complainant contends require disclosure, many of which appear to be taken from the subject judge's Financial Disclosure Report, do not warrant an inference of misconduct. The complainant has likewise failed to provide any evidence that the judge improperly delayed the filing of the underlying complainant. Finally, the complainant has failed to provide any evidence that the subject judge instructed the Marshals Service to harass or intimidate the complainant.

In sum, because the complaint is based upon allegations lacking sufficient evidence to raise an inference that misconduct has occurred, it must be dismissed. *See* 28 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).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).