

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90014

**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 the 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: 4-11-13

MEMORANDUM

The complainant alleges that a judge of the United States District Court for the District of Columbia engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, the complainant alleges that the subject judge violated the law and denied the complainant due process of law. For the following reasons, these allegations do not warrant action against the subject judge.

In the Superior Court for the District of Columbia, a woman obtained a civil protection order that, among other things, ordered the complainant to stay away from her and her family. The complainant then filed a federal civil rights action against the woman, her family members, and all of the Superior Court and District of Columbia Court of Appeals judges associated with the case. The subject United States District Judge dismissed the complaint, stating that the United States District Court lacked jurisdiction to review or reverse the decisions of the District of Columbia courts. The complainant then filed the instant judicial misconduct complaint against the subject judge, asserting that "Plaintiff has filed suit not asking for the United States District Court to intervene, Plaintiff has brought suit because of the civil rights violations of 5th and 14th Amendments, and Equal Protection of the Law." The complainant went on to argue that the subject judge's order was "written in bad faith to deny the [complainant] due process of law."

Other than simply stating that the subject judge violated the law and denied the complainant due process of law, the complainant has failed to provide any specific

evidence of wrongdoing on the part of the subject judge. The allegations against the subject judge therefore lack sufficient 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). Moreover, the allegations are more appropriately characterized as a direct challenge to the merits of the subject judge's order dismissing the complainant's complaint. The appropriate avenue to obtain relief from allegedly erroneous rulings 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."). Rather, challenges to the merits of the dismissal order should be raised in the complainant's pending appeal.

Accordingly, because the complainant's allegation lacks sufficient evidence to raise an inference that misconduct has occurred and is directly related to the merits of the subject judge's 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), the 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).