

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**In the Matter of**

**Judicial Council Complaint No. DC-13-90016**

**A Charge of Judicial  
Misconduct or Disability**

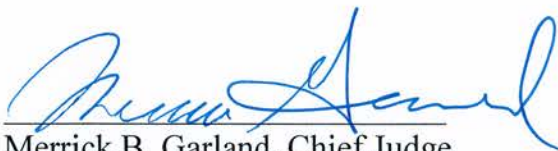
Before: GARLAND, Chief Judge of the Circuit

## **ORDER**

Upon consideration of the complaint herein, and the supplement thereto, 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); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B).

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: 4/23/13

## MEMORANDUM

The complainant has filed a complaint of judicial misconduct against a judge of the United States District Court for the District of Columbia. Specifically, the complainant alleges that the subject judge has improperly rejected the complainant's papers for filing and is improperly shielding the complainant's claims from judicial scrutiny. For the following reasons, these allegations do not warrant action against the subject judge.

The complainant submitted a complaint to the District Court for filing. Because the complaint did not include an application for *in forma pauperis*, the subject judge issued an order returning the pleadings unfiled to the complainant for failure to comply with the Federal Rules of Civil Procedure and the Local Rules of the District Court. The complainant then attempted to file a second complaint. The subject judge issued an order returning those pleadings unfiled as well. The order specified the deficiencies in the pleadings and advised the complainant that, if he wished to file a case, he would have to comply with the court's filing instructions, which were enclosed. The complainant did not refile his pleadings. Instead, he filed the instant judicial misconduct complaint against the subject judge, asserting that the judge improperly "intercepted the verified complaint[s] . . . shielding [the complainant's] complaint/claims from judicial scrutiny based on captious objections, fine spun theories of procedure, and as not meeting the standards of technical pleadings." The complainant went on to argue that the subject judge's rejection of "two, so closely timed complaints, does appear to evidence a pattern and procedure of such unlawful conduct."

The complainant's allegations are more appropriately characterized as a direct challenge to the merits of the subject judge's orders returning the complainant's pleadings unfiled. 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 district court's orders should be raised in a petition for writ of mandamus filed with U.S. Court of Appeals for the District of Columbia Circuit.

Accordingly, because the complainant's allegations are directly related to the merits of the subject judge's decisions, 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), 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).