

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90026

A Charge of Judicial Misconduct or Disability

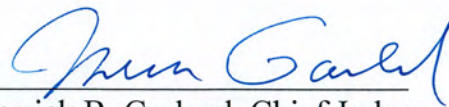
Before: GARLAND, Chief Judge of the Circuit

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)(B) & (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: 9/24/13

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 failed to apply the law and the court's local rules and that the subject judge failed to consider portions of the complainant's complaint, exhibits, and the record. For the following reasons, these allegations do not warrant action against the subject judge.

The complainant filed a complaint against the defendants asserting claims that arose from his purchase of and foreclosure of real property. The subject judge dismissed the complaint without prejudice determining that, pursuant to Fed. R. Civ. P. 8(a), the complaint failed to contain a clear jurisdictional statement or a clear statement of the claim or the relief sought. The complainant then filed the instant judicial misconduct complaint against the subject judge.

The complainant generally argues that the subject judge failed to apply Supreme Court precedent and the local rules and that the subject judge failed to consider all of his allegations in the complaint and ignored his exhibits and record support. But the complainant has not provided 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* 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).

Moreover, the allegations are more appropriately characterized as direct challenges to the merits of the subject judge's order dismissing the complaint. A judicial misconduct proceeding is not the appropriate avenue to obtain relief from an allegedly erroneous ruling. *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."). Challenges to the merits of a judge's order must be raised in a timely appeal.

Accordingly, because the complainant's allegations lack sufficient evidence to raise an inference that misconduct has occurred and 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), 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).