

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**In the Matter of**

**Judicial Council Complaint No. DC-13-90035  
DC-13-90036**

**A Charge of Judicial  
Misconduct or Disability**

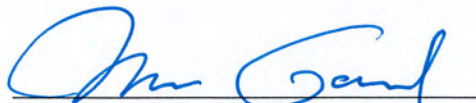
Before: GARLAND, Chief Judge of the Circuit

## **ORDER**

Upon consideration of the complaint herein, filed against a magistrate judge and a judge of the United States District Court for the District of Columbia, it is

**ORDERED** that the complaint be dismissed for the reasons stated in the attached Memorandum. *See* 28 U.S.C. § 352(b)(1)(A)(ii) and (iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B) and (D).

The Clerk is directed to send copies of this Order and accompanying Memorandum to the complainant, the subject judges, 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: \_\_\_\_\_

1-15-2014

## M E M O R A N D U M

The complainant alleges that a magistrate judge and 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. For the following reasons, the allegations do not warrant action against the subject judges.

The complainant alleges that the magistrate judge “(i) falsified the record, (ii) exceeded [the judge’s] jurisdiction and (iii) impersonated an Article III judge in dismissing the Indictment.” These allegations arise out of the magistrate judge’s 2009 dismissal, at the request of the United States Attorney, of a dormant criminal indictment that had remained outstanding since 1988 and in which the complainant played no role whatsoever. The complainant also objects to the magistrate’s denial of the complainant’s motion to intervene in those proceedings. Because those allegations are “directly related to the merits of a decision or procedural ruling,” the complaint against the magistrate judge “must be dismissed.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B); *See* 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant also asserts that the subject district court judge was “repeatedly made aware of this malfeasance of [the magistrate judge], failed to take any action and sought to obfuscate and cover-up further inquiry into” the allegations against the magistrate judge. The district judge sent the complainant a detailed letter that reasonably explained the judge’s finding that there was no malfeasance on the part of the magistrate

judge and hence no warrant for further action. Because the allegations “lack[] sufficient evidence to raise an inference that misconduct has occurred” on the part of either the magistrate or the district judge, the complaint against the district judge must also be dismissed. *Id.* 11(c)(1)(D).<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).