

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90005

**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 Bankruptcy Court, it is

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

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: April 3, 2014

MEMORANDUM

The complainant alleges that a bankruptcy judge engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The complainant is the debtor in a bankruptcy case pending before the subject judge, and the allegations arise out of that proceeding. For the following reasons, the allegations do not warrant action against the subject judge.

The complaint alleges that the judge ruled against the complainant on a matter of state law, “in spite of the Bankruptcy Court having no jurisdiction to make such a ruling.” It also contends that, in several respects, the judge ruled in a manner that contradicted a related District of Columbia Superior Court ruling. It further maintains that the judge “attempted to thwart any Appeal” the complainant might take to the United States District Court “by labeling in advance any such Appeals as being ‘frivolous,’ in spite of having no jurisdiction to do so.” Finally, the complaint alleges that the judge “refused to substantively address . . . allegations and evidence of ‘fraud’ and ‘collusion’” by a Chapter 7 Trustee and a lawyer for another party to the bankruptcy proceedings. Because all of these allegations are “directly related to the merits of a decision or procedural ruling,” they must be dismissed. *See* JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B).

The complaint further alleges that the above allegations are not merely about the merits of the subject judge’s rulings because the judge has “a Motive of personal Bias.” This claim of bias is based on allegations that the above-mentioned other party to the

bankruptcy proceeding was once “a high-ranking official with” a United States Senator, that the senator was a “patron[]” who supported the judge’s 1988 appointment to the bankruptcy court, and that the other party is represented by a law firm that employs a lobbyist who was once the former senator’s chief of staff. The judge was appointed twenty-six years ago; the senator in question retired from office eleven years ago and has been deceased for six years. Because the claim of bias is “lacking sufficient evidence to raise an inference that misconduct has occurred,” it too must be dismissed. *See* 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), 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).