

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90016

**A Charge of Judicial
Misconduct or Disability**

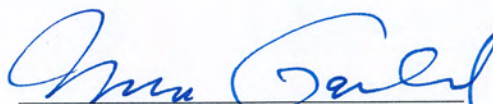
Before: GARLAND, Chief Judge

ORDER

Upon consideration of the complaint herein, filed against 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.

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

Date: 9/3/14

M E M O R A N D U M

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. The complainant's allegations arise out of two cases he filed in the district court that were assigned to the subject judge. For the following reasons, the allegations do not warrant action against the judge.

In the first case, the complainant sued his ex-wife for defamation, slander, libel, and alienation of affection. The subject judge dismissed the case for lack of personal jurisdiction over the defendant, who was a resident of North Carolina. The complainant alleges that, in so doing, the judge "willfully and prejudicially misrepresented the facts" and "willfully and prejudicially misapprehended the controlling law." These allegations are "directly related to the merits of a decision or procedural ruling," and hence they cannot constitute "[c]ognizable misconduct" under the Judicial-Conduct Rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Judicial-Conduct Rule 3(h)(3)(A); *see* Judicial-Conduct Rule 11(c)(1)(B) (requiring dismissal of a complaint "directly related to the merits of a decision").

The complainant further alleges that "[a] reasonable and prudent person would conclude that the Judge's extraordinary judicial acts of knowingly misstating facts and misapprehending the controlling law, was due to judicial incompetence and ignorance of the law, or, as it seems more likely, judicial discrimination against the male *pro se* plaintiff." Because the complaint offers no evidence of incompetence, ignorance, or

gender bias other than the complainant's view of the judge's disposition of the merits of his case, it "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred" and "must be dismissed." Judicial-Conduct Rule 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

In the second case that the complainant filed in the district court, he sued New Hampshire trial and appellate court judges who ruled against him in an employment suit in that state, as well as the Clerk of the Supreme Court of the United States and two deputy clerks who allegedly refused to accept his petition for a writ of certiorari. The subject judge dismissed the second case on the ground of absolute judicial immunity. The complainant alleges that the dismissal constituted an "act of egregious judicial misconduct of voiding the Rule of Law and Rules of Civil Procedure to obtain pre-emptive relief for her fellow judges." Again, to the extent this allegation disputes the merits of the subject judge's decision, it does not constitute cognizable misconduct. Judicial-Conduct Rule 3(h)(3)(A). To the extent it charges that the subject judge acted with bias in favor of other judges, it is based on an allegation lacking sufficient evidence to raise an inference that misconduct has occurred. Judicial-Conduct Rule 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).¹

¹ Pursuant to 28 U.S.C. § 352(c) and Judicial-Conduct Rule 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. Judicial-Conduct Rule 18(b).