

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90019

**A Charge of Judicial  
Misconduct or Disability**

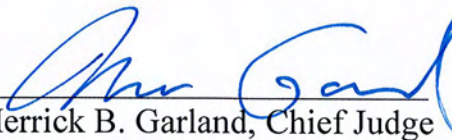
Before: GARLAND, Chief Judge

## **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, 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: \_\_\_\_\_

9/12/14

## 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. The allegations arise out of a lawsuit the complainant filed in the district court that was assigned to the subject judge. For the following reasons, the allegations do not warrant action against the judge.

The complainant's underlying lawsuit alleged that the defendant, formerly an attorney with the Tax Division of the United States Department of Justice, violated his constitutional rights. The subject judge granted the defendant's motion to dismiss the case with prejudice.

The complainant alleges that the judge denied the complainant "his right to a fair proceeding." Specifically, the complainant asserts that the judge is "denying me of my right to a jury trial, . . . allowing the defendants to file all of their documents unsworn, . . . causing the writ of mandamus and subpoenas filed not to be served on the defendants, . . . [and] is allowing the defendants to unlawfully take my property without an affidavit, application for a warrant and a warrant." These allegations are "directly related to the merits of a decision or procedural ruling" and therefore cannot constitute "[c]ognizable misconduct" under the Judicial-Conduct Rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 3(h)(3)(A). Accordingly, this aspect of the complaint must be dismissed. *See* JUDICIAL-CONDUCT RULE 11(c)(1)(B) (requiring dismissal of a complaint "directly related to the merits of a

decision”); 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant also alleges that the judge “violated the 5<sup>th</sup> Amendment of the U.S. Constitution, when he denied [him] access to the court by enjoining him from filing and having his petitions not received in the court.” The complainant further maintains that the judge “denied [him] his right to file an ‘OBJECTION TO A NULL AND VOID ORDER’” and “violated an Act of Congress when he did not perform his non discretionary, ministerial duty in not serving a writ of mandamus.” These allegations are again directly related to the merits of the judge’s decisions and cannot provide the basis for a judicial misconduct complaint. JUDICIAL-CONDUCT RULE 3(h)(3)(A); *see* JUDICIAL-CONDUCT RULE 11(c)(1)(B).

Finally, the complainant alleges that the judge has “a conflict of interest because he is named as a defendant in said case” and “is disqualified from the proceedings.” The judge is not, however, a defendant in the underlying case. The complainant did file a document in that case entitled “Petition for Writ of Mandamus,” which he captioned “In Rem: [complainant] vs. [the subject judge].” The judge reasonably construed that document as either a motion to amend or a motion for recusal and denied the motion. Because the complaint offers no further evidence of “a conflict of interest,” this allegation “lack[s] sufficient evidence to raise an inference that misconduct has

occurred,” and this aspect of the complaint must be dismissed as well. JUDICIAL-  
CONDUCT RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).<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).