

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90031

## A Charge of Judicial Misconduct or Disability

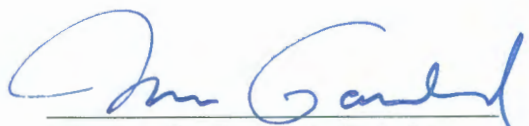
Before: GARLAND, Chief Judge

### 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 Circuit Executive 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: 2/2/15

## 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 complainant's allegations arise out of an action filed by the complainant against the United States, the Secretary of the Army, and others that was assigned to the subject judge.

The complainant alleges that the judge committed "ex-parte fraud" and improperly ruled on his "Complaint of Ex-Parte Actions." The allegations appear to be based on the judge's decision to grant the defendants' motions for extension of time before the complainant filed responses to the motions. Because the complaint offers no evidence of ex parte communications other than the complainant's view that the motions were improperly granted without first being served on him, it "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred" and so "must be dismissed." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(D). To the extent that the allegations challenge the merits of the judge's response to the "Complaint of Ex-Parte Actions," they are "directly related to the merits of a decision or procedural ruling" and so must also be dismissed. *Id.*, RULE 11(c)(1)(B).

The complainant further alleges that the subject judge improperly dismissed his motion for default judgment as "plainly frivolous," granted the defendants' motions for extension of time, and construed his reply to the motion for default judgment as one for

reconsideration of the order denying the motion for default judgment. These allegations are also “directly related to the merits of a decision or procedural ruling” and must be dismissed. *Id.*, RULE 11(c)(1)(B).

Finally, the complainant alleges that the subject judge’s decisions “demonstrate a prejudice[d] state of mind.” Because the complainant offers no evidence of prejudice other than the fact that the judge ruled against him, this assertion lacks “sufficient evidence to raise an inference that misconduct has occurred” and must also be dismissed. *Id.*, RULE 11(c)(1)(B). *See generally* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).<sup>1</sup>

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<sup>1</sup> 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 Circuit Executive for the D.C. Circuit within 35 days of the date of the Circuit Executive’s letter transmitting the dismissal Order and this Memorandum. JUDICIAL-CONDUCT RULE 18(b).