

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90043

DC-14-90044

DC-14-90045

**A Charge of Judicial
Misconduct or Disability**

Before: GARLAND, Chief Judge

ORDER

Upon consideration of the complaint described herein, filed against three judges of the United States Court of Appeals for the District of Columbia Circuit, 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 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

Date: 2/10/15

MEMORANDUM

The complainant alleges that three judges of the United States Court of Appeals for the District of Columbia Circuit engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The complaint arises out of an appellate case that was assigned to the subject judges.

The complainant brought a discrimination suit against his employer in the United States District Court. When the district court granted the defendant's motion for summary judgment, the complainant appealed, and the case was assigned to an appellate panel composed of the three subject judges. After the panel affirmed the judgment of the district court, the complainant filed the instant judicial misconduct complaint.

The complainant alleges that the judges discriminated against him because of his pro se status and his religious beliefs. As evidence of that discrimination, the complaint states that the subject judges affirmed the judgment of the district court without addressing two issues raised in the complainant's appellate brief and without stating the legal standard for not addressing those issues. Because the allegation of discrimination is based solely on the alleged failure of the panel's written opinion to address those two issues and state that legal standard, it "lack[s] 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). The underlying allegation, that the judges' opinion wrongly failed to address those issues and state that standard "is directly related to the merits of a decision or procedural ruling" and

thus also “must be dismissed.” *Id.*, RULE 11(c)(1)(B). *See generally* 28 U.S.C. § 352(b)(1)(A)(ii), (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 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).