

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90048
No. DC-14-90049

A Charge of Judicial
Misconduct or Disability

Before: HENDERSON, Acting Chief Judge

ORDER

Upon consideration of the complaint herein, filed against two judges 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 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).



Karen LeCraft Henderson, Chief Judge

Date: 2/10/15

MEMORANDUM

The complainant alleges that two judges of the United States District Court for the District of Columbia have engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The allegations arise out of the complainant's criminal case that was first assigned to the subject judge in DC-14-90049 and then reassigned to the subject judge in DC-14-90048.

The complainant asserts that the judges "have demonstrated and perpetrated habitual delays in bad faith, neglect of office, under the color law, and authority, as jussitism [sic] in every stage of my case and subsequent proceedings." As to the judge in DC-14-90049, who was initially assigned the case, the complainant specifically alleges that the judge "conspired with the Prosecutors . . . to present a superseding indictment . . . with no probably cause/standing violating Petitioner's 4th Amendment Constitutional Right by proceeding to trial." The complainant goes on to state that "[t]his was done hoping that a guilty verdict could and would cure a Constitutionally defective indictment." He also asserts that this conspiracy resulted in a violation of his 5th Amendment right to due process of law and 6th Amendment right "to have compulsory process for obtaining witness in my favor." Other than the pure speculation as to reasons for the conspiracy, the complainant has failed to provide any evidence to support his conspiracy claim. Thus the claims against the judge in DC-14-90049 lack "sufficient evidence to raise an inference that misconduct has occurred or that a disability exists" and so "must be dismissed." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-

DISABILITY PROCEEDINGS 11(c)(1)(D). *See* 28 U.S.C. § 352(b)(1)(A)(iii).

As to the judge in DC-14-90048, the complainant claims that the judge “delayed ruling on my writ of stay and petition to disqualify [the judges] and for release on personal recognizance causing me to suffer cruel and unusual punishment” and “caused and allowed habitual delays not ruling on resolution as appropriate as ordered by the Circuit Court.” These allegations of delay are also without merit. An “allegation about delay in rendering a decision” does not constitute cognizable misconduct “unless the allegation concerns an improper motive in delaying a particular decision” or “habitual delay in a significant number of unrelated cases.” JUDICIAL-CONDUCT RULE 3(h)(3)(B). In this case, the complainant fails to attribute an improper motive to the judge’s actions or demonstrate a pattern of delay in a significant number unrelated of cases. Accordingly, the allegation of delay in this “single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge – in other words, assigning a low priority to deciding the particular case.” *Id.*, RULE 3 Commentary. The complaint of judicial misconduct based on improper delay must therefore be dismissed. *See* 28 U.S.C. § 352(b)(1)(A)(ii) (providing for dismissal of a complaint that is “directly related to the merits of a decision or procedural ruling”); JUDICIAL-CONDUCT RULE 11(c)(1)(B) (“A complaint must be dismissed in whole or in

part to the extent that the chief judge concludes that the complaint . . . is directly related to the merits of a decision or procedural ruling.”).¹

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