

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-15-90004

## A Charge of Judicial Misconduct or Disability

Before: GARLAND, *Chief Judge*.

### ORDER

Upon consideration of the complaint described 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: 10/1/15

## MEMORANDUM

The complainant has filed a complaint of judicial misconduct against a judge of the United States District Court for the District of Columbia. The allegations arise out of criminal cases against the complainant that were assigned to the subject judge.

The complainant was convicted of conspiracy to distribute and possess with intent to distribute narcotics. In a related case, the complainant was convicted of conspiracy to distribute more than five kilograms of cocaine. On appeal, the U.S. Court of Appeals for the District of Columbia Circuit reversed the complainant's second conviction, on the ground that the district court had erroneously admitted evidence, and remanded the case for a new trial. Based on the reversal of the second conviction, the Court of Appeals granted the government's motion to vacate the first conviction and remand the case to the district court for further proceedings. The cases remain pending before the district court.

After the remand of his cases, the complainant filed the instant judicial misconduct complaint against the subject judge. Among other allegations, the complainant alleges that the judge improperly refused to release him from custody, notwithstanding that his conviction in the second case had been overturned. The complainant also alleges that the judge lacked jurisdiction to consider his criminal cases and misapplied the law. All of the allegations "must be dismissed" because they are "directly related to the merits of a decision or procedural ruling." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant further alleges that the subject judge obstructed justice and conspired with the government “to commit fraud on the court by bribing” a witness to submit false testimony. He also alleges that the judge was biased against him and discriminated against him because of his race. But the complainant has not proffered any support for these allegations. The complainant does state that the judge “denied every motion” he filed, but the fact that the judge ruled against the complainant, even repeatedly, is not by itself evidence of bias or discrimination. Accordingly, these allegations lack “sufficient evidence to raise an inference that misconduct has occurred” and must also be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

Finally, although the complainant has filed a complaint only against the subject judge, his complaint also mentions two other U.S. District Court judges. Because the information mentioned does not “constitut[e] reasonable grounds for inquiry” into whether those two judges engaged in misconduct, no complaint will be identified against them. JUDICIAL-CONDUCT RULE 5(a).<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).