

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-15-90007

**A Charge of Judicial
Misconduct or Disability**

Before: GARLAND, *Chief Judge*.

ORDER

Upon consideration of the complaint described herein, 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. For the following reasons, the complaint will be dismissed.

In 1997, the complainant was convicted of multiple murders and several related crimes in the Superior Court of the District of Columbia. During the following years, he filed three petitions for writs of habeas corpus in the United States District Court for the District of Columbia, all of which were denied. In 2014, he filed another habeas petition, which was assigned to the subject judge. The judge dismissed the petition, concluding that the U.S. District Court lacked jurisdiction over two of the claims and that the third was barred by the statute of limitations. The complainant appealed that dismissal, and the appeal is currently pending before the United States Court of Appeals for the District of Columbia Circuit.

Following the dismissal of his petition, the complainant filed the instant complaint, which alleges that the subject judge “lie[d] to help the government to win.” The “lie[s]” alleged in the complaint are statements made by the judge in the course of dismissing the complainant’s petition -- statements regarding procedural matters that the complainant alleges are factually incorrect. These allegations are “directly related to the merits of a decision or procedural ruling,” and hence do not constitute cognizable misconduct. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS

RULE 3(h)(3)(A). Accordingly, the misconduct complaint must be dismissed. *Id.* RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).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).