

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-15-90029

A Charge of Judicial Misconduct or Disability

Before: GARLAND, *Chief Judge*.

ORDER

Upon consideration of the complaint 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: 12/9/15

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 misconduct complaint will be dismissed.

The complainant filed a civil action in the Superior Court for the District of Columbia against several defendants for conduct that allegedly occurred overseas. The case was removed to the U.S. District Court for the District of Columbia and assigned to the subject judge. The judge denied the defendants' motion to dismiss or for summary judgment without prejudice to reconsideration upon proof of proper service of the motion on the complainant. The defendants subsequently filed a motion for reconsideration, attaching a certificate of service indicating that the complainant was served. Thereafter, the complainant filed a response to the motion to dismiss and to the motion for reconsideration. The judge then granted the motion for reconsideration and the motion to dismiss, concluding that the complainant had failed to state a claim. More than 10 years later, the complainant filed a series of four motions for leave to file a motion to reopen the case. On each occasion, the judge denied leave to file.

The complainant has now filed a judicial misconduct complaint contending that the subject judge improperly dismissed her underlying case. Dismissal was improper, she alleges, because she "was never served with any papers," "took no part in [the] litigation," and "had no knowledge of it." Regardless of whether these allegations are factually correct, they are "directly related to the merits" of the district court's decision to

dismiss her civil action and therefore do not constitute “cognizable misconduct.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 3(h)(3)(A). Accordingly, this part of the judicial misconduct complaint must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 11(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant also alleges that the judge had an “improper motive in acting on account of [her] race, . . . sex, . . . [and] in forma pauperis status.” Because the complaint offers no evidence of such improper motive, it is “based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred” and must be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(D).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).