The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90015
No. DC-16-90016
No. DC-16-90017
No. DC-16-90018
No. DC-16-90019
No. DC-16-90020
No. DC-16-90021
No. DC-16-90022
No. DC-16-90023
No. DC-16-90024
No. DC-16-90025
No. DC-16-90026
No. DC-16-90027
No. DC-16-90028
No. DC-16-90029
No. DC-16-90030

A CHARGE OF JUDICIAL MISCONDUCT OR DISABILITY

Before: HENDERSON, *Circuit Judge*[*]

ORDER

Upon consideration of the complaint herein, filed against four judges of the United States District Court for the District of Columbia and twelve 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. *See* 28 U.S.C. § 352(b)(1)(A)(ii), (iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D).

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).

KLH
Karen LeCraft Henderson, Circuit Judge
District of Columbia Circuit

Date: 7/25/16

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[*] Pursuant to JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 25(f), the Judicial Council has voted to allow Judge Henderson to consider this complaint.

MEMORANDUM

The complainant has filed complaints of judicial misconduct against four judges of the United States District Court for the District of Columbia and twelve judges of the United States Court of Appeals for the District of Columbia Circuit. For the following reasons, the misconduct complaints will be dismissed.

Complainant is an attorney who represented a party in a long-running dispute against a business partner, in a series of cases filed in the district, bankruptcy, and appellate courts of this circuit. Complainant filed a prior judicial misconduct complaint against a judge of the United States District Court for the District of Columbia who had presided over two cases in the series: an action filed by complainant's client that ultimately resulted in a multi-million dollar judgment against the client; and a tort action, filed in federal court in New York, transferred to the district court for the District of Columbia, and then dismissed. That Judicial Complaint was dismissed on the grounds that complainant's allegations were "directly related to the merits of a decision or procedural ruling," and otherwise "lack[ed] sufficient evidence to raise an inference that misconduct had occurred." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii). Complainant filed with the Judicial Council a petition for review of the order dismissing that complaint. The Judicial Council affirmed the disposition and denied the petition for review.

Complainant then filed misconduct complaints against two judges of the United States Court of Appeals for the District of Columbia Circuit, alleging those judges engaged in misconduct related to the disposition of the first misconduct complaint and

by improperly affirming certain district court orders. Those complaints were also dismissed. Complainant filed with the Judicial Council a petition for review. The Judicial Council affirmed the dismissal orders and denied the petition for review.

To the extent complainant now alleges the subject judges engaged in misconduct by not conducting an investigation into his earlier allegations of misconduct, these claims "lack sufficient evidence to raise an inference that misconduct has occurred" and 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). Similarly, the allegations that certain subject judges engaged in misconduct by not transferring his prior misconduct complaints to another circuit also "lack sufficient evidence to raise an inference that misconduct has occurred" and must be dismissed.

Finally, complainant alleges one of the subject judges engaged in misconduct by imposing a filing injunction against his client. This allegation, however, is "directly related to the merits of a decision or procedural ruling," and therefore is not cognizable misconduct under the governing statute and rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 3(h)(3)(A). Accordingly, this part of the judicial misconduct complaints must be dismissed. 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).[2]

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[2] Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL -DISABILITY PROCEEDINGS 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 42 days of the date of the dismissal order. *Id.* Rule 18(b).