

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90033

No. DC-16-90034

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY

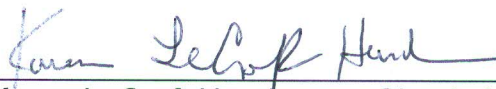
Before: HENDERSON, *Circuit Judge**

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. See 28 U.S.C. § 352(b)(1)(A)(iii); 28 U.S.C. § 352(b)(2); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(D) and 11(e).

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, Circuit Judge
District of Columbia Circuit

Date: 10/7/16

* Acting pursuant to Rule 25(f) of the RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS.

MEMORANDUM

Complainant has filed a complaint of judicial misconduct against two judges 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 pro se class action lawsuit in the United States District Court for the District of Columbia. The case was assigned to the first subject judge, who dismissed the case. Complainant then filed a civil lawsuit against the first subject judge and others, and that case was assigned to the second subject judge, who dismissed the case on absolute immunity grounds. The complainant has now filed a judicial misconduct complaint against the two district court judges.

Complainant alleges the first subject judge engaged in misconduct because he had conflicts of interest but did not recuse himself. Complainant also alleges that the subject judges had a "filial relationship" because they worked at the same law firm at different times, and the second subject judge should have recused himself. These claims, however, "lack sufficient evidence to raise an inference that misconduct has occurred," and therefore the complaint 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).

In addition, the first subject judge has retired from active service. Thus, the complaint proceeding against him can be concluded under 28 U.S.C. § 352(b)(2), as "action on the complaint is no longer necessary because of intervening events." See *also* JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(e) ("The chief judge may conclude a complaint proceeding in whole or

in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible.”).¹

¹ 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).