

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90007

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
District of Columbia Circuit

Date: 8/30/17

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 is the proprietor of a company that seeks to collect on an allegedly unpaid invoice for services it rendered to Libya's former government, "the Great Socialist Peoples Libya Arab Jamahiriya." In August 2014, he filed a complaint in the U.S. District Court for the District of Columbia against the U.S. Department of State and sixteen current or former employees of the Department. The complaint sought injunctive relief and monetary damages in connection with the Department's refusal to provide him with diplomatic assistance in collecting the alleged debt. The complaint also sought to compel the Department to release certain documents under the Freedom of Information Act (FOIA).

The subject judge was assigned the complainant's case. In July 2015, the judge granted the defendant's partial motion to dismiss or in the alternative for summary judgment and dismissed all of the complainant's non-FOIA claims against the federal government and the individual defendants. The Department subsequently moved for summary judgment on the complainant's FOIA claims. In September 2016, the judge denied the Department's motion in part and granted it in part. The Department has since filed a supplemental motion for summary judgment, which remains pending.

The complainant has now filed a judicial misconduct complaint against the subject judge, asserting numerous deficiencies in the judge's rulings. The complaint alleges that the judge: "ignored personal service of process 'under force of arms'"; improperly granted summary judgment to the named defendants before they filed an answer to the complaint and before commencement of discovery; "failed to address clearly delineated authorities" addressed in the complainant's complaint and summary judgment memorandum; denied complainant's "Motion to Test Sufficiency of the Answer"; failed to issue a scheduling order; "ignored well settled authorities . . . supporting [complainant's] positions"; and wrongly "determined a privacy interest in the names of federal public officials contrary to statutes, practices and procedures." All of these allegations are "directly related to the merits" of the subject judge's decisions and procedural rulings. Accordingly, they do not constitute "cognizable misconduct" under the Judicial-Conduct Rules and must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULES 3(h)(3)(A), 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

The complaint also contends that the subject judge "reflected a governmental bias beyond the pale of judicial discretion." The only grounds the complaint asserts for this contention are "the foregoing" actions described in the previous paragraph. Because the complaint thus offers no evidence of misconduct other than the complainant's challenge to the merits of the judge's decisions and orders, this contention "is based on allegations

lacking 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).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 42 days of the date of the Circuit Executive’s letter transmitting the dismissal Order and this Memorandum. JUDICIAL-CONDUCT RULE 18(b).