

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90015

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: 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. The complaint will be dismissed for the following reasons.

The complainant is a prisoner in the custody of the Federal Bureau of Prisons. In September 2016, he attempted to file a case in the District Court and submitted an application to proceed without prepayment of fees and costs. On January 3, 2017, the subject judge denied the complainant leave to file without prepayment of costs, citing his status under the Prison Litigation Reform Act, 28 U.S.C. § 1915(g). The complainant then submitted his pleading with a \$5.00 filing fee. On May 22, 2017, the judge returned the papers to the complainant, noting that he had submitted the incorrect filing fee because the “\$5 filing fee only applies if you are filing a petition for writ of habeas corpus.”

The complainant has now filed a judicial misconduct complaint, complaining that the judge repeatedly returned “the documentation” to him. This claim is “directly related to the merits” of the subject judge’s procedural decision to deny him leave to file in forma pauperis. Accordingly, it cannot constitute the basis for “cognizable misconduct” under the Judicial-Conduct Rules, and the allegation 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).¹

The complainant also indicates that he cannot determine what the proper filing fee is. To the extent that he is still having difficulty determining the proper fee, he may contact the Assistant Chief Deputy for Operations, U.S. District Court for the District of Columbia, for assistance.

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).