

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90013

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 Bankruptcy 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: 11/9/18

MEMORANDUM

The complainant has filed a complaint of judicial misconduct against a judge of the United States Bankruptcy Court for the District of Columbia. For the following reasons, the misconduct complaint will be dismissed.

The complainant filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code. Subsequently, the subject judge issued an order converting the case from Chapter 13 to Chapter 7, and the Chapter 7 trustee filed a motion for an order approving the turnover of the complainant's real property, a co-owned commercial building. The judge directed the complainant to turn the property over to the trustee. After a hearing, the judge rejected the complainant's efforts to revise the sale order and held the complainant in civil contempt for violating the turnover order. Still later, the judge held the claimant in civil contempt for failing to turn over tax records requested by the trustee.

The complainant has now filed the instant judicial misconduct complaint against the subject judge, asserting that the case "has had an appearance of bias of any and all Debtor's motions or responses." Although the complainant states that "common sense kicks in with the feeling of being discriminated against," the evidence she proffers is as follows: The "facts have been disregarded [in] this case in its entirety"; the judge "ruled on a non-core Bankruptcy issue or state cause of action . . . when the Bankruptcy Court can hear only core proceeding as to 28 U.S. Code § 157"; the "case summary appears that

[the] judge’s unauthorized conclusion of law has prejudice[d] Debtor’s state appeal case”; the “Bankruptcy Court order is . . . unconstitutional and illegal[;] it also lacks subject matter jurisdiction”; and the “court order . . . has a bias statement that the debtor has a non-existen[t] lease.”

All of these allegations are “directly related to the merits” of the judge’s “decision[s] or procedural ruling[s].” 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 complainant’s further contention that she did not receive notice of the April 19, 2017 court hearing for making an objection claim until after the hearing does not warrant her inference that the judge was “not wanting Debtor to be there.” The docket reflects that the Clerk’s Office, not the judge, filed a certificate of hand-mailing to the complainant four days before the hearing, and it further records that the complainant attended the hearing. Hence, this claim, too, “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); *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 after the date of the dismissal order. JUDICIAL-CONDUCT RULE 18(b).