

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90028

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: 1/10/18

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 filed an action against the Departments of Defense and Homeland Security, the Office of the President, the Attorney General, a bank, and a medical facility in the Philippines. The case was assigned to the subject judge, who described the complainant's civil complaint as follows:

Plaintiff describes the deaths of several family members, a separate legal claim pending before the United States Court of Federal Claims, theft of her personal belongings and research materials from her car and apartment, and being the victim of stalking and sexual assault, but does not make any allegation that the federal Defendants or [the medical facility] are legally responsible for that conduct, in whole or in part. . . . Although Plaintiff seeks \$600,000,000 in compensatory damages and \$800,000,000 in punitive damages, . . . she has not identified any basis for that request. Finally, although Plaintiff holds [the medical facility] responsible for her brother's death, . . . she offers no basis for this court to exercise jurisdiction over that Philippines-based medical facility.

The judge then dismissed all counts of the complaint. Thereafter, the complainant filed a "Motion to Alter or Amend Judgment," which the court denied, stating:

The court found that Plaintiff failed to comply with [Federal Rule of Civil Procedure] 8's "short and plain" pleading requirement and that her claims against the federal defendants and [the medical facility] were so fantastic that she could not possibly prevail. See Mem. Op., ECF No. 14, at 2 (noting the "wide-ranging, conclusory statements" concerning a variety of subjects).

(underlining added). The complainant noted an appeal, which is currently pending.

The complainant has now filed the instant judicial misconduct complaint against the subject judge, asserting that the judge was biased in favor of the defendants. The complaint alleges that such bias is shown by the language underlined above. But as the commentary to the Judicial-Conduct Rules states, when a “judge’s language was relevant to the case at hand -- for example, a statement that a claim is legally or factually ‘frivolous’ -- then the judge’s choice of language is presumptively merits-related and excluded [from the definition of ‘cognizable misconduct’], absent evidence apart from the ruling itself suggesting an improper motive.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 3(h)(3)(A), commentary; *see Liteky v. United States*, 510 U.S. 540, 555 (1994)) (“[J]udicial remarks during the course of [litigation] that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.”). Because the judge’s language constituted the basis for his dismissal of the case, it “was relevant to the case at hand.” And because there is no independent evidence suggesting an improper motive, the complaint “is directly related to the merits of a decision” and must be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).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).