

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90038

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY

Before: HENDERSON, *Circuit Judge**

ORDER

Upon consideration of the complaint herein, filed against a judge of the United States Court of Appeals for the District of Columbia Circuit, 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).



Karen LeCraft Henderson, Circuit Judge
District of Columbia Circuit

Date: 9/21/18

* 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 a judge of the United States Court of Appeals for the District of Columbia Circuit. For the following reasons, the misconduct complaint will be dismissed.

Complainant alleges that the subject judge made false statements under oath on a variety of topics. Complainant asserts that there exist emails demonstrating the falsity of the subject judge's statements, but complainant has not provided the court with those emails, discussed the contents of those emails in any detail, or explained how those emails demonstrate that the subject judge engaged in misconduct.

Complainant has also asserted that the subject judge has "given inconsistent statements" about the subject judge's position on a particular question of law. But complainant has not identified any such statements or explained how they are inconsistent. Furthermore, complainant has not explained why allegedly inconsistent statements made by a judge about that judge's judicial philosophy should give rise to a finding of judicial misconduct. See JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(A) (permitting dismissal of a misconduct complaint which "alleges conduct that, even if true, is not prejudicial to the effective and expeditious administration of the business of the courts").

Finally, complainant alleges that Trump administration officials made false statements about whether certain documents were shielded from public release by executive privilege or national security concerns. This allegation does not concern the conduct of the subject judge.

Because the misconduct complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred,” and “alleges conduct that, even if true, is not prejudicial to the effective and expeditious administration of the business of the courts,” it must be dismissed. JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(A), (D); see 28 U.S.C. § 352(b)(1)(A)(iii).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).