

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90011

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: 10/25/18

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 a “Petition for a Writ of Habeas Corpus Ad Testificandum” against the Chief Justice of the United States and the Clerk of the U.S. Supreme Court. The case was assigned to the subject judge. The judge noted that the complainant’s claims did not relate to the production of witnesses for testimony, but rather stemmed from the Supreme Court’s alleged failure to accept his petitions for writs of certiorari and mandamus. Because “[t]his court has no jurisdiction to consider challenges to the Supreme Court’s exercise of its discretionary jurisdiction,” the judge dismissed the petition. The complainant then filed the instant judicial misconduct complaint against the subject judge.

Although the bulk of the complaint addresses wrongs allegedly committed by the Supreme Court, the complainant makes two specific statements regarding the subject judge. First, he states that the judge “works in concert, without withdrawal to deprive Civil Rights (18 U.S.C. §§ 241, 242).” Second, he states that the judge “is not immune from liability for his tortious judicial conduct where his failure to adhere to US Constitutional perquisites [sic] have stripped him of judicial conduct and liable under 28 USC 351-364!” The complaint neither explains the import of these statements nor cites,

identifies, or references any evidence of misconduct. Accordingly, because the complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” it must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

Finally, to the extent that a part of the complaint alleges that the subject judge, in dismissing the complainant’s petition, failed to correct procedural or substantive errors committed by the Supreme Court, those allegations are “directly related to the merits” of the dismissal order. JUDICIAL-CONDUCT RULE 3(h)(3)(A). Accordingly, that part of the complaint does not constitute “cognizable misconduct” under the Judicial-Conduct Rules and must also be dismissed. JUDICIAL-CONDUCT RULES 3(h)(3)(A), 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).