

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90022  
No. DC-18-90023

## A Charge of Judicial Misconduct or Disability

Before: GARLAND, *Chief Judge*.

### ORDER

Upon consideration of the complaint herein, filed against two judges 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 judges, 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: 10/24/18

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## MEMORANDUM

The complainant filed complaints of judicial misconduct against two judges of the United States District Court for the District of Columbia. For the following reasons, the complaints will be dismissed.

The complainant filed a lawsuit against a federal government agency, alleging that he had applied for two positions of employment with the agency and that he suffered damages when he was deliberately rejected for both positions. The case was assigned to the first subject judge (the judge in Jud. Misconduct Compl. No. DC-18-90022). That judge granted the complainant's application for leave to file in forma pauperis and dismissed the complaint for lack of subject matter jurisdiction. The judge concluded that the complainant's claims were "explicitly excluded from the waiver of sovereign immunity under the [Federal Torts Claim Act and thus the complainant was] barred from bringing such claims in this matter." The complainant has appealed that decision, and the appeal remains pending.

The complainant filed a second suit against a different federal government agency, alleging that he had been improperly evicted from a property where he was a tenant. The complainant then filed a motion to use a P.O. box for mailing, a motion to proceed in forma pauperis, and a motion for leave to supplement the complaint. The case was assigned to the second subject judge (in Jud. Misc. Compl. No. DC-19-90023), who granted the three motions. The complainant then filed a "Subpoena to Produce

Documents.” The second subject judge denied that motion, citing Local Rule 5.2, which addresses the procedures for filing discovery requests and responses. A different district judge ultimately dismissed the complaint for failure to meet the minimum pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure. Thereafter, the complainant filed a “motion for reinstatement,” which was dismissed.

The complainant has now filed judicial misconduct complaints against the two subject judges. The complainant alleges that the first subject judge

is inferior of motion to summons the defendant when IFP granted to proceed without pay no moot was presented within final order. Improper civil procedure before the final order.

Compl. No. DC-18-90022. The complainant alleges that the second subject judge

granted supplemental pleading to be submitted to the court within a time period and return the original pleadings disregarding the information. Judge granted IFP and but still send a proceed without pay petition to refile something already granted. Improper civil procedure.

Compl. No. DC-18-90023. Although it is difficult to determine the exact nature of the complainant’s allegations, the contention that the judges did not follow the proper “civil procedure” is “directly related to the merits” of the judges’ orders, and therefore does not constitute “cognizable misconduct” under the Judicial-Conduct Rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE

3(h)(3)(A). Accordingly, the misconduct complaints must be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).<sup>1</sup>

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<sup>1</sup> 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).