

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90024

A Charge of Judicial Misconduct or Disability

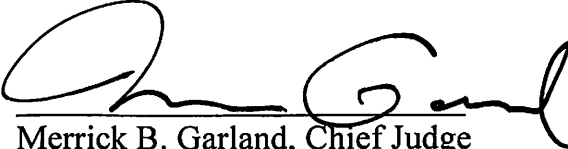
Before: GARLAND, *Chief Judge*.

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: 10/26/18

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 lawsuit against a federal judge, an individual, the Judiciary Committee of the United States, and two United States Senators. The case was assigned to the subject judge, who noted that:

Plaintiff's narrative comprising the prolix complaint is largely incomprehensible. Most discernible are the scurrilous comments about [the defendant judge and the individual]. The attachments to the complaint suggest that this action stems from the dismissal of plaintiff's case by [the defendant judge]. Plaintiff seems to fault the Senate defendants for their presumed role in [the defendant judge's] elevation to the federal bench.

Memorandum Opinion (internal citations omitted). The subject judge dismissed the complaint for failure to state a claim for relief, and as frivolous and malicious. The complainant then moved for reconsideration of the order dismissing the case and for disqualification of the subject judge. That matter was assigned to another district court judge, who denied the motion for reconsideration. The complainant then appealed the subject judge's decision, and that appeal remains pending.

The complainant has now filed a judicial misconduct complaint against the subject judge, asserting that the judge committed

unconstitutional misbehavior under color of law; fraud on the court by a judge of the court; civil rights violations under (18 USC, sections 241 and 242) the color of law; and derivative criminal machinations.

Although it is difficult to discern the basis of the claim of alleged wrongdoing, the complainant does assert that the judge denied him access to the courts. While it is unclear how the complainant believes access was denied, he could be referring to the fact that the subject judge dismissed his case. The complainant further challenges the content of the judge's memorandum opinion dismissing the case, alleging that it was "malicious and factually incorrect," included "vindictive statements and dishonest implications," and intentionally misrepresented the facts when it stated that the complaint contained "scurrilous comments." All of those allegations are "directly related to the merits" of the judge's memorandum opinion and therefore do 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 that part of the misconduct complaint must be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant further alleges that the subject judge “may have interfered with petitioner’s receiving a related . . . briefing order of the U.S. Court of Appeals” and that the judge’s refusal “to serve” the complainant had “racial over-tones.” The complainant does not cite, identify, or reference any evidence in support of those allegations.

Accordingly, because that part of the complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” it too 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).