

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90025  
DC-18-90026  
DC-18-90027

## A Charge of Judicial Misconduct or Disability

Before: GARLAND, *Chief Judge*.

### ORDER

Upon consideration of the complaint herein, and the supplement thereto, filed against three judges 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 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

No. DC-18-90025  
No. DC-18-90026  
No. DC-18-90027

## MEMORANDUM

The complainant, a prisoner, has filed a complaint of judicial misconduct against three judges of the U.S. Court of Appeals for the District of Columbia Circuit. He also asks that the court direct that funds his custodian withdrew from his prison trust account in excess of the amount required to pay an appellate filing fee be returned to his account, and that the court “request [that his custodian] cease paying this Court from [complainant’s] account.” After an initial inquiry, the undersigned has determined that excess funds were in fact withdrawn from the complainant’s account and sent to the court. Accordingly, the undersigned has directed that the excess funds be returned and that the custodian be advised that no further payment is required. At the same time, because the subject judges had nothing to do with the overpayments, the misconduct complaints against them will be dismissed.

The complainant filed a lawsuit against 25 defendants, including the United States, various federal agencies, federal officials, and branches of the military. The U.S. District Court for the District of Columbia dismissed the complaint for failure to set forth a short and plain statement of the claims as required by Rule 8(a) of the Federal Rules of Civil Procedure. The complainant moved for reconsideration of the order dismissing the case, which the court denied. The complainant then appealed both the order dismissing the case and the order denying reconsideration to the U.S. Court of Appeals for the District of

Columbia Circuit.

Based on the complainant's prison trust account report and his consent to collection of fees, a panel of the Court of Appeals -- composed of the three subject appellate judges -- directed that \$21.80 be deducted from the complainant's trust fund account as the initial partial filing fee for the appeal. The appellate panel further directed the complainant's custodian "to collect and pay from appellant's trust account monthly installments of 20 percent of the previous month's income credited to the account, until the full \$505 docketing fee has been paid."

The complainant has now filed a judicial misconduct complaint against the three appellate judges, alleging that he has paid the full \$505 filing fee and that his custodian continues to deduct money from his trust account. The complainant states that, "for this court [to] allow [the person in] inmate banking to unreasonably and outrageously draw money from my account in payments that balance is finish[ed], [is] a question of this Court conspir[ing] with [the inmate banker]." The complainant requests that the court return the withdrawn fees paid in excess of the filing fee and that it "request [that his custodian] cease paying this Court from [complainant's] account."

Pursuant to the authority granted by Rule 11(b) of the Judicial Conference Rules for Judicial-Conduct and Judicial-Disability Proceedings, the undersigned commenced a limited inquiry. The inquiry disclosed that the complainant was correct that his custodian had withdrawn money from his account in excess of the amount owed for the appellate

filing fee. Accordingly, on October 11, 2018, the court mailed a letter to the complainant's custodian, stating that the complainant's account was paid in full and that no further payments were required. On October 15, 2018, the court mailed a check for the excess payment to the complainant's custodian.

With respect to the complaints of judicial misconduct, there is no evidence of wrongdoing on the part of the subject judges and, in particular, no evidence that those judges conspired with the complainant's custodian to continue to withdraw excess funds from his inmate account. Accordingly because the allegations of the complaint are insufficient "to raise an inference that misconduct has occurred," the complaint 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).<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).