

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90082
DC-18-90083
DC-18-90084
DC-18-90085
DC-18-90086
DC-18-90087
DC-18-90088

A Charge of Judicial
Misconduct or Disability

Before: GARLAND, *Chief Judge*.

ORDER

Upon consideration of the complaint herein, filed against three judges of the United States District Court for the District of Columbia and four judges of the U.S. 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, RULE 11(g)(2) (2019).


Merrick B. Garland, Chief Judge

Date: 4/4/19

No. DC-18-90082
No. DC-18-90083
No. DC-18-90084
No. DC-18-90085
No. DC-18-90086
No. DC-18-90087
No. DC-18-90088

MEMORANDUM

The complainant has filed complaints of judicial misconduct against three judges of the U.S. District Court for the District of Columbia and four judges of the U.S. Court of Appeals for the District of Columbia Circuit. For the following reasons, the complaints will be dismissed.¹

In 1979, the complainant was convicted of fraud in the U.S. District Court for the Southern District of New York. Twelve years later, in 1991, he filed a lawsuit against the Justice Department and others in the U.S. District Court for the District of Columbia. The suit sought \$1 billion in damages for alleged violations of his constitutional rights arising out of his 1979 fraud conviction and subsequent deportation to the Bahamas, where he

¹ The complaint also refers to two deceased district court judges, one deceased court of appeals judge, and the Chief Justice of the United States. Allegations against those individuals are not covered by the Judicial Conduct Rules or the Judicial Conduct and Disability Act and therefore must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 1 (2019) (“A covered judge is defined under the Act and is limited to judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363.”); *see* 28 U.S.C. § 351(d).

currently resides. In May 1991, the district court dismissed the lawsuit, and the complainant appealed.

In 1992, a panel of the court of appeals (including the subject judges in Nos. DC-18-90085 and DC-18-90086) granted the appellees' motion for summary affirmance on the grounds that the claims related to the constitutionality of his arrest, conviction, and deportation were finally decided in prior actions and were barred by res judicata, and that the challenges to the finding of deportability were barred by the statute of limitations.

In 2016, twenty-four years after the 1992 court of appeals decision, the complainant filed another lawsuit against the Justice Department and others in the U.S. District Court for the District of Columbia, again challenging his conviction and deportation. A district court judge (the subject judge in No. DC-18-90084) dismissed the case with prejudice, citing the 1992 court of appeals decision. The following month, another district court judge (the subject judge in No. DC-18-90083) denied the complainant leave to file an "emergency motion for a restraining order and preliminary injunction."

In 2017, the complainant filed an appeal from the 2016 order dismissing his case. Thereafter, the district court judge who dismissed the case denied complainant leave to file an "urgent request for judicial assistance." On appeal, a panel of the court of appeals (comprised of the subject judges in Nos. DC-18-90086, DC-18-90087, and DC-18-90088) affirmed the district court's dismissal order, noting that dismissal was appropriate on res

judicata and statute of limitations grounds.

The complainant has now filed the instant judicial misconduct complaint, which alleges “39 years of judicial and other misconduct against me.” The complaint further alleges that the two appellate judges on the panel that decided his 1992 case issued an “unconstitutional affirmance order without any notice or opportunity to allow me to exercise my guaranteed constitutional rights.” The complainant also asserts that the two district court judges who handled his case in 2016-17, and a third district court judge who did not (the subject judge in No. DC-18-90082), “unconstitutionally hindered and obstructed and delayed filing and processing [of his complaint] . . . and dismissed it” without a response from the government. Finally, the complainant argues that the three appellate judges who decided his 2017 appeal “did exactly what ‘the district judges did’; no procedural due process of law or equal protection of laws.”

The complainant’s judicial misconduct complaint does not allege any specific wrongdoing by any of the subject judges. Instead, it contains generalized allegations that the subject judges acted “unconstitutionally” and violated his rights. To the extent that those allegations “call[] into question the correctness of [the subject judges’] ruling[s],” they do not allege cognizable misconduct under the Judicial Conduct Rules or applicable statute. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 4(b)(1) (2019); *see* 28 U.S.C. § 352(b)(1)(A)(ii). And the allegations otherwise “lack[] sufficient evidence to raise an inference that misconduct has

occurred.” JUDICIAL-CONDUCT RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

Indeed, the complaint contains no specific allegations at all regarding the subject judge in

No. DC-18-90082, who does not appear to have handled any of the complainant’s cases.

Accordingly, all of the judicial misconduct complaints will be dismissed. JUDICIAL-

CONDUCT RULE 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).²

² 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 this order. JUDICIAL-CONDUCT RULE 18(b).