

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90020

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 (2019), RULE 11(g)(2).



Merrick B. Garland, Chief Judge

Date: 8/1/2019

MEMORANDUM

The complainant has filed a second complaint of judicial misconduct against a judge of the United States District Court for the District of Columbia. For the following reasons, the complaint will be dismissed.

The complainant filed a lawsuit against the District of Columbia in the U.S. District Court. In January 2014, the subject judge dismissed the action for lack of subject matter jurisdiction, pursuant to *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983), and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 414-16 (1923), concluding that the lawsuit “essentially seeks review of the local probate court’s rulings.” In June 2014, the U.S. Court of Appeals for the D.C. Circuit affirmed the dismissal, concluding that “Appellant's claims are ‘so inextricably intertwined’ with a state court decision that ‘the district court is in essence being called upon to review the state court decision.’” The court further concluded that the appellant (the complainant here) did not “provide[] any objective basis for questioning the district court’s impartiality.”

Meanwhile, in March 2014, the complainant filed his first misconduct complaint against the subject judge, alleging that the judge “engaged in felony obstruction of justice, by blocking my case against the District of Columbia.” He further alleged that the judge “dismissed the case utilizing baseless arguments” because the case “was never about a review of the D.C. Superior Court case, but was based upon fraud, neglect, failure to prevent and a plethora of other claims.”

In August 2014, the complainant's misconduct complaint was dismissed because, inter alia, the allegations were "'directly related to the merits of a decision or procedural ruling' and hence they cannot constitute '[c]ognizable misconduct' under the Judicial-Conduct [Proceedings] Rules." Memorandum at 1, Compl. No. DC-14-90014. The complainant had argued that he was not challenging the "merits" of the judge's decision, but rather alleging that the judge "failed to be impartial" because of his "pervasive bias." This "is evident from [the judge's] order," the complainant argued, because the complainant's district court case was "obviously . . . not based upon issues relating to reviewing the D.C. Superior Court and anyone who is sane and not senile can understand that." This argument was rejected, however, because the alleged evidence [the judge's order] was "directly related to the merits of a decision or procedural ruling." Memorandum at 2, Compl. No. DC-14-90014. And "[b]ecause the complaint offer[ed] no other evidence of bias, it [was] 'based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.'" *Id.* It was therefore dismissed.

The complainant has now filed a second misconduct complaint against the subject judge concerning his "behavior" in the same district court lawsuit. He maintains that the subject judge "misrepresented and mischaracterized the [civil] complaint by stating that, the complaint sought to relitigate the probate case in the Superior Court[,] which was [a] blatant fabrication." The judge, he contends "issued an illegal dismissal order disregarding federal precedent and the constitution."

Again, however, the allegations “call[] into question the correctness of [the] judge’s” order, and hence do not constitute “[c]ognizable misconduct” under the Judicial-Conduct Proceedings Rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1). The complainant again maintains that his allegations are not “merits-related” because “this complaint is about obstruction by [the subject judge] and his failure to be impartial in this case.” But again, the only proffered evidence is that “the rulings made by [the judge] disregarded federal law and precedent, and . . . failed to be impartial in the case and established ulterior motives, blatantly misrepresenting the complaint.” Because this evidence is “directly related to the merits of a decision or procedural ruling,” it cannot alone constitute the basis for a misconduct complaint. *Id.* Rule 11(c)(1)(B). Finally, because nothing on the face of the subject judge’s rulings indicates bias, and because the complaint offers no other evidence of bias, the complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.” *Id.* RULE 11(c)(1)(D). Accordingly, the complaint will be dismissed. *Id.* Rule 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).¹

¹ Pursuant to 28 U.S.C. § 352(c) and Judicial-Conduct Proceedings 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 PROCEEDINGS RULE 18(b).