

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90024

**A Charge of Judicial  
Misconduct or Disability**

Before: GARLAND, *Chief Judge*.

## ORDER

Upon consideration of the complaint herein, and the supplement thereto, 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: 8/21/19

**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 misconduct complaint will be dismissed.

The complainant has filed nine lawsuits in the U.S. District Court for the District of Columbia and four in the District of Columbia Superior Court, stemming from an employment dispute with a government agency and a dispute with the attorney who formerly represented him in settlement discussions with the agency. In one of those lawsuits, assigned to the subject judge, the complainant asserted that he had been coerced into settling his employment discrimination claims against the agency. The judge dismissed the suit, without prejudice, for lack of subject matter jurisdiction.

The complainant then filed his first judicial misconduct complaint against the subject judge. He alleged that the judge had abused his power by issuing orders that did not cite legal authority and by dismissing the suit without liberally construing certain of his pro se filings. The complainant further asserted that the subject judge was biased in favor of the federal defendants, as demonstrated by the fact that the judge dismissed the claims against those defendants. The misconduct complaint was dismissed because, *inter alia*, the allegations were not supported by the record, were “directly related to the merits of a decision or procedural ruling,” or “lack[ed] sufficient evidence to raise an inference that misconduct had occurred.” Memorandum at 1-2, Compl. No. DC-16-90046 (2016).

After the first misconduct complaint was resolved, the complainant litigated several more of his lawsuits, including another suit against his former employer and former attorney. He alleged that his former attorney had committed legal malpractice, fraud, breach of contract, and intentional infliction of emotional distress. The subject judge dismissed the suit against the former attorney, finding that similar litigation in the D.C. Superior Court barred the same claims from being litigated in federal court. The judge also dismissed the complainant's allegations of discrimination, improper denial of workers' compensation, collusion during the settlement process, and retaliatory conduct levied against the agency. After the dismissal of the action, the former attorney sought and was granted an injunction barring the complainant "from filing suit in any federal district court against [the former attorney] or any other party regarding [the complainant's] termination from [the agency] or her representation of him without first obtaining leave of this Court."

The complainant has now filed a second judicial misconduct complaint against the subject judge stemming from the aforementioned litigation. The complainant alleges that the subject judge "unjustifiably dismissed" his lawsuit. He further asserts that the subject judge "did not intend to provide me fair due process due to him being biased while retaliating to protect [complainant's former attorney]. . . . [The judge] retaliated by denying my motions in an attempt to save [complainant's former attorney's] reputation and career as an attorney." The complainant also claimed that the judge "had an 'axe to

grind' against" the complainant's new attorney and that the judge granted the former attorney's injunction "while ignoring [the attorney's] false statements regarding threats and harassment, and egregious misconduct." In a supplement to the misconduct complaint, the complainant further alleges that the subject judge "continue[s] to retaliate and harass[] me by granting pre-filing injunctions."

The allegation that the judge "unjustifiably dismissed" the complainant's lawsuit and wrongly granted pre-filing injunctions "calls into question the correctness of [the subject judge's] ruling[s]," JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1). Such an allegation does not constitute "[c]ognizable misconduct" under the Judicial-Conduct Proceedings Rules or the applicable statute. *Id.*; *see* 28 U.S.C. § 352(b)(1)(A)(ii). As with the first misconduct complaint, this complaint does not cite, identify, or reference any evidence in support of the allegations that the judge was biased, retaliated against the complainant, or treated complainant's new lawyer unfairly. Nor can bias be shown merely by "call[ing] into question the merits" of the judge's decisions. JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(1). Accordingly, because the misconduct complaint "is based on allegations lacking

sufficient evidence to raise an inference that misconduct has occurred,” it will be dismissed. *Id.* Rule 11(c)(1)(D); *see id.* RULE 11(c)(1)(B); 28 U.S.C. § 352(b)(1)(A)(ii), (iii).<sup>1</sup>

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<sup>1</sup> 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).