

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90028

## 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 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 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: 2/5/20

**MEMORANDUM**

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

The complainant is a federal prisoner who filed an action in the United States District Court that was dismissed for failure to comply with the Prison Litigation Reform Act (PLRA). A three-judge panel of the United States Court of Appeals, which included the subject judge, denied the complainant's motion for leave to proceed in forma pauperis, finding that the complainant had brought at least three civil actions or appeals that were dismissed on the ground that they were frivolous, malicious, or failed to state a claim. *See* 28 U.S.C. § 1915(g).

In his misconduct complaint, the complainant alleges that the subject judge “knowingly used fraudulent PLRA Strikes for more than a decade to deprive me of all ‘rights’ and to conceal numerous major Constitutional violations at the Federal Supermax Prison.” He further asserts that the judge erroneously described cases that were voluntarily dismissed as strikes in order “to justify denying access to the Court,” that the judge is “preventing the full Court from reviewing en banc decisions that expose more than a decade of violations,” and that the judge has “revoked all Constitutional Rights by withholding Due Process solely for the benefit” of the Department of Justice.

The complainant’s attack on the subject judge for denying his efforts to proceed under the PLRA “calls into question the correctness” of the judge’s rulings, JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1), which 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). Accordingly, it will be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).<sup>1</sup>

---

<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).