

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90029

**A Charge of Judicial
Misconduct or Disability**

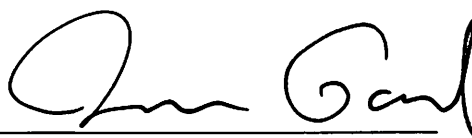
Before: GARLAND, *Chief Judge*.

ORDER

Upon consideration of the complaint herein, filed against a magistrate 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: 2/5/20

MEMORANDUM

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

The complainant filed suit against the Social Security Administration (SSA) in district court, seeking the immediate release of money, compensatory and punitive damages, and an increase in his monthly disability benefits. The district court referred the case to the subject judge for pretrial proceedings, determinations, and scheduling. All motions to dismiss were also to be referred to the subject judge for report and recommendations.

The SSA payment center subsequently sent the complainant a payment. The complainant then filed a motion for judgment of reversal in the district court, asserting that he was owed additional money. The defendant agency filed a motion to dismiss, asserting that the complainant had not exhausted his administrative remedies because there had been no final decision on the question of additional monies owed, and thus the court lacked subject matter jurisdiction regarding the calculation of alleged additionally owed benefits. Three months after the defendant's motion to dismiss was fully briefed, the complainant filed a motion for an order ruling on the case. The motion to dismiss and the motion for a ruling are currently pending.

The complainant has now filed a judicial misconduct complaint against the subject judge, alleging that the judge has failed to rule on the motion to dismiss, which has now been pending for over a year, and has failed to respond to the complainant’s motion for a ruling. “Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(2). The complainant has alleged neither that the judge has an improper motive for delaying resolution of the motions nor that the judge has habitually delayed in a significant number of cases. Accordingly, the allegations of delay do 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, the complaint will be dismissed. *See* JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(2) Commentary; RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).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).