

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-20-90012

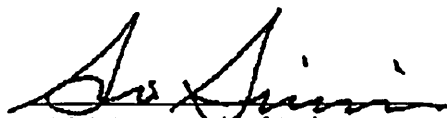
Before: Srinivasan, Chief Judge.

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).


Sri Srinivasan, Chief Judge

Date: 6/5/20

MEMORANDUM

The complainant has filed a 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 complaint brought a patent infringement suit against foreign and domestic corporations, a law firm, a government agency, and the United States Attorney General. Because the complainant was proceeding *in forma pauperis*, the subject judge issued an order noting that “the officers of the court must ‘issue and serve all process’ in this case.” The complainant subsequently submitted an affidavit requesting the foreign mailing of his summons and complaint against the foreign company. The Clerk of Court filed proof of having sent by Federal Express the summons and complaint against the foreign company.

Because the foreign company had not noted an appearance, in February 2020, the subject judge directed the complainant and the law firm (the other remaining defendant at that time), to each file a status report addressing: 1) whether either party knew if the foreign service had been received by the foreign company; 2) whether the service on the foreign company was sufficient; 3) whether service on the foreign company should be attempted again; and 4) whether the foreign company was an indispensable party in the litigation. In March 2020, both the complainant and the law firm filed their respective status reports.

The complainant then filed a complaint of judicial misconduct alleging that the subject judge failed to ensure proper service on the foreign company. Prior to the court’s receipt of the misconduct complaint, the subject judge ordered that, based on the status reports, the Clerk of

Court should make a second attempt to effectuate service upon the foreign corporation because the earlier attempts at service “did not comply with the strictures provided by the Service Convention . . . and therefore did not result in the completion and return of a certificate of service.”

The record demonstrates that the subject judge appropriately directed the Clerk of Court to issue and serve all process in the case. The fact that service was not effectuated on the first attempt does not demonstrate misconduct on the part of the subject judge. The subject judge’s order directing the Clerk of Court to effectuate service a second time, after it became clear that it had not been done properly the first time, reinforces that the judge took necessary steps to ensure proper service. Accordingly, the complainant lacks “sufficient evidence to raise an inference that misconduct has occurred” and must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(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).