

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-20-90040

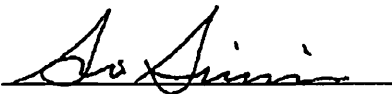
Before: Srinivasan, Chief Judge

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: 12/28/20

No. DC-20-90040

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 suit in the district court related to the bombings of the U.S. embassy in Lebanon in 1983 and 1984. The complainant's case stemmed out of the same set of facts at issue in an earlier set of cases in which the district court found Iran liable for its role in sponsoring the acts of terrorism and awarded compensatory and punitive damages. Like the plaintiffs in the earlier suits, the complainant also moved for default judgments. But unlike the earlier suits, the district court in these cases denied the motions and *sua sponte* dismissed the 2016 cases, concluding they were barred by the statute of limitations. The Court of Appeals reversed, holding that the District Court "lack[ed] authority to *sua sponte* raise a forfeited statute of limitations defense in a FSIA terrorism exception case, at least where the defendant sovereign fails to appear."

On remand, the subject judge concluded that the complainant did "not specify the state or foreign law upon which the[] causes of action are based, and thus [was] given a chance to amend their complaint." The complainant sought reconsideration of that order, which was denied. The subject judge, however, recognized that the complainant was proceeding pro se and afforded him additional time to amend the

complaint. The complainant filed an amended complaint, and responded to the subject judge's status report order, indicating that he did not intend to obtain counsel and that "notice of suit for the summons and order complaint was executed under diplomatic note."

The complainant has now filed a judicial misconduct complaint against the subject judge, alleging that the subject judge showed "deliberate delay for the whole record and by filing the same amended claim documents twice, but 1 month apart" and "has not replied since 05/29/2020 to give me judgment for what is rightfully mine." The complainant further asserts that the subject judge "used his discretionary power to deny motion for default judgment," "raised a new issue . . . [that had] not been raised since the beginning of the claim," and erroneously "replied that federal law does not apply . . . [a]lthough there is a precedence that federal law applied."

First, to the extent the complainant is alleging that the subject judge improperly delayed consideration of the case, that allegation is without merit. "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 does not allege an improper motive in his case or habitual delay in unrelated cases. While the district court docket reflects that the amended complaint

was first mistakenly entered in error and then subsequently filed, that does not, in and of itself, demonstrate an improper motive in delaying the case. Furthermore, a review of the docket shows that the subject judge is proceeding with the case, issuing an order as recently as October 2020.

Second, to the extent the complainant is alleging that the subject judge improperly used his “discretionary power” and erroneously raised new issues and determined that federal law did not apply, those allegations “call[] into question the correctness of [the] judge’s ruling[s].” JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(1). Such allegations 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, because the complainant’s allegations do not constitute “[c]ognizable misconduct” and are “directly related to the merits of a decision or procedural ruling,” the complaint must be dismissed. JUDICIAL-CONDUCT PROCEEDINGS 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).