

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-20-90041

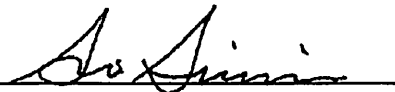
Before: Srinivasan, Chief Judge

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-20-90041

MEMORANDUM

The complainant has filed a third 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 a multitude of lawsuits in the U.S. District Court for the District of Columbia and 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 unsupported 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.” Compl. No. DC-16-90046.

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 against the agency of discrimination, improper denial of workers’ compensation, collusion during the settlement process, and retaliatory conduct. After the dismissal of the action, the subject judge granted the former attorney 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 then filed a second judicial misconduct complaint against the subject judge alleging that the subject judge “unjustifiably dismissed” his lawsuit. He further asserted 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 alleged that the subject judge "continued to retaliate and harass[] me by granting pre-filing injunctions." This second judicial misconduct complaint was also dismissed because it simply "call[ed] into question the correctness of [the subject] judge's ruling[s]" and was "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred." Compl. No. DC-19-90024.

After the second misconduct complaint was resolved, the complainant continued to litigate against the agency, once again making allegations related to discrimination and defamation in 2013 and the settlement in 2015, and adding a new allegation that the agency's placement of the complainant on a Do Not Admit (DNA) List prevented the complainant from getting a job in 2017. The subject judge granted the agency's motion to dismiss. First, the judge noted that the court had already concluded in a prior case that the settlement agreement was valid and was not procured by improper means. Second, the court found that the employment-related claims were barred by issue preclusion because the court had previously concluded that the complainant's settlement agreement barred any employment claims that had previously arisen. Lastly,

the newly raised DNA claim was barred by the doctrine of judicial estoppel because the complainant failed to disclose its existence in his December 2017 bankruptcy petition. Alternatively, the court noted that some of the claims, even if not barred by judicial estoppel, would be dismissed for failure to state a claim. The Court of Appeals subsequently affirmed the subject judge's order dismissing the complaint and denied the complainant's petition for rehearing.

The complainant has now filed a third complaint of judicial misconduct related to the subject judge's dismissal of the complainant's most recent cases. The complainant again alleges that the subject judge "wrongly dismissed [his] civil case" and that his dismissal of the case was evidence of "retaliatory actions, bias, prejudices, and avoidance protected [complainant's former counsel] and the Agency while denying the Complainant fair due process and justice." The complainant further alleges that the subject judge and complainant's former attorney "had a working relationship since October 2015, thus allowing them to manipulate and taint the judicial process by purposely ignoring security access-disputes, medical, and disability issues, and the DNA List since July 2016."

Once again, the complainant is attempting to challenge the merits of the subject judge's dismissal of the complaint. As was the case with the two prior complaints, the latest allegations "call[] into question the correctness of [the subject] judge's ruling[s]," and do not constitute cognizable misconduct. U.S. JUDICIAL CONFERENCE, JUDICIAL-CONDUCT

AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1). And, once again, the subject judge's dismissal of the complaint does not provide an independent basis for the complainant's unsupported allegations of retaliation and bias. Thus, these allegations "lack[] sufficient evidence to raise an inference that misconduct has occurred." JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D). Accordingly, this complaint must be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B), (D); 28 U.S.C. § 352(b)(1)(A)(ii), (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).