

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-21-90001

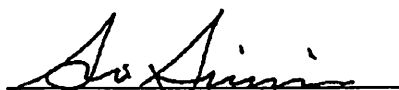
Before: Srinivasan, Chief Judge

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: 3/19/21

No. DC-21-90001

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 complainant was found not guilty by reason of insanity of Damaging a Vehicle Used in Interstate Commerce by Means of Fire, in violation of 18 U.S.C. § 844(i), and Arson, in violation of D.C. Code § 22-301. The charges resulted from an incident in which the complainant threw flammable liquid into an occupied Metro train and then ignited it. After a hearing to determine the complainant's eligibility for release, the trial judge found that the complainant suffered from a mental illness, and that, if he was released, he would pose a substantial risk of injury to others or damage to the property of others due to his mental illness. The complainant was committed to the custody of the Attorney General, and was subsequently transferred to a Federal Medical Center (FMC), where he received psychiatric treatment and treatment for his physical disabilities. Subsequently the case was reassigned from the trial judge to the subject judge.

In 2015, after a hearing, the subject judge denied a recommendation for conditional release and the complainant remained at FMC. In 2018, the complainant again sought conditional release. FMC reported that the complainant continued to suffer from Delusional Disorder, for which he was prescribed intramuscular medication under an involuntary medication protocol. The report further stated that, while unconditional release would continue to pose a substantial risk of bodily injury to a person or serious damage to the

property of another, the complainant was suitable for conditional release under conditions that would mitigate his risk of future violence. The subject judge granted the complainant a conditional release permitting him to reside in the community under certain restrictions, including that he continue his psychiatric treatment and medication.

In 2019, the complainant sought to modify the conditions of his release so that he could be permitted to move to alternative housing and that he be able to visit the community unaccompanied, for up to six hours per week, to engage in educational, therapeutic, and rehabilitative pursuits. Based on recommendations from U.S. Probation and the organization that operates the complainant's group residence, the subject judge issued a modified order for conditional release. A little over a year later, the complainant again sought to modify the conditions of his release to permit him additional unaccompanied time in the community, up to 18 hours per week. Based on the recommendations of all the parties involved, the subject judge again granted the request to modify the conditions of release. As part of the modified conditions, the complainant was to continue to receive psychiatric treatment and medication, including administration of the prescribed intramuscular medication.

The complainant has now filed the instant judicial misconduct complaint against the subject judge. The complainant alleges that the subject judge "violated his constitutional right to life, liberty and the pursuit of happiness as well as trampled upon the Eighth Amendment prohibition on cruel and usual punishment by subjecting him to 27-year torture in addition to condoning Continued Criminal Enterprise (CCE) through extortion of money from several manuscripts by Federal Bureau of Prison authorities." He also claims that the subject judge

“subjected multi-disabled orphan complainant to sadistic and wanton infliction of pain and suffering for 27 years with forced medication (injection) of power pernicious psychotropic drug,” and that the judge has turned a blind eye to “egregious crimes against lots of inmates.” The complainant further alleges that the subject judge delayed consideration of the requests to modify the conditions of his release and improperly denied his conditional release in 2015. The complainant also asserts that the subject judge’s “mysterious trip[s]” to Texas, the home of Presidents George H.W. Bush and George W. Bush, shortly before his conditional release hearings, were suspicious.

It appears that the complainant is primarily challenging the subject judge’s 2015 denial of conditional release, the requirement that the complainant continue medication while on conditional release, and the overall length of the complainant’s confinement. These allegations, however, go to the merits of the subject judge’s decisions regarding the complainant’s requests for conditional release. Therefore, these allegations “call[] 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). 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).

To the extent the complainant is alleging that the subject judge ignored crimes against inmates, made suspicious trips to Texas, and supported efforts to prevent the complainant from profiting from his “upcoming books,” those claims must also be dismissed. The complainant has failed to provide any support for his allegations other than his own beliefs.

Thus, these allegations “lack[] sufficient evidence to raise an inference that misconduct has occurred,” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D), and must also be dismissed.

Finally, to the extent the complainant is alleging that the subject judge improperly delayed consideration of his motion for conditional release and his subsequent motions to modify the conditions of his release, that allegation also 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. Furthermore, a review of the docket shows that the 2018 motion for release was decided within six weeks of the hearing on the matter; the 2019 motion to modify conditions of release was decided in less than a month; and the 2020 motion to modify conditions of release was decided in just over a month.

Accordingly, because the complaint “is directly related to the merits of [the judge’s] decision[s]” and is “based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” the complaint will be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B) & (D); *see* 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).