

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-20-90057  
No. DC-20-90058  
No. DC-20-90059

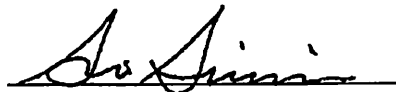
Before: Srinivasan, Chief Judge

**ORDER**

Upon consideration of the complaint herein, filed against three judges of the United States Court of Appeals for the District of Columbia Circuit, 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: 5/25/21

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## MEMORANDUM

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

The complainant filed a complaint in district court against an agency and Administrative Law Judge; a federal Court of Appeals, including the Chief Judge, “all en banc Judges” and the Clerk of the Court; and the Supreme Court and a staff member. The complaint alleged constitutional violations and sought monetary damages. The district court judge granted the complainant’s motion for leave to proceed in forma pauperis (IFP) and *sua sponte* dismissed the complaint without prejudice under 28 U.S.C. §§ 1915(e)(2)(B)(iii), because the complaint sought “monetary relief against [] defendant[s] who [are] immune from such relief.” The district court judge explained that judges and court staff are immune from damage suits relating to judicial actions and that constitutional tort claims against the government and its agencies are barred by sovereign immunity. Nearly three months later, the complainant submitted an amended complaint which the district court judge denied leave to file, stating that the case was dismissed.

The complainant then filed a motion to proceed IFP and petition for writ of mandamus with the Court of Appeals, arguing that the district court judge’s failure to docket his amended complaint violated his First Amendment rights. The Court of Appeals, made up of the three subject judges, granted the motion to proceed IFP and denied the mandamus petition. The

subject judges determined that the complainant had not shown a clear and indisputable right to mandamus relief. The court further noted that granting the complainant leave to file the specific complaint would be futile because the amended complaint sought monetary damages from defendants, all of whom were immune from suit. Furthermore, the extent the complainant sought to amend his complaint to allege that agency counsel engaged in some wide-ranging conspiracy, the subject judges found that claim frivolous. The complainant subsequently sought rehearing and rehearing en banc, both of which were denied.

The complainant then filed a judicial misconduct complaint against the district court judge, which was dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred.” *In the Matter of a Complaint of Judicial Misconduct or Disability*, No. DC-20-90055 at 2. The complaint also filed the instant judicial misconduct complaint against the three subject judges. Like in No. DC-20-90055, the complainant alleges that the judges conspired with an agency, a federal Court of Appeals, and the Supreme Court. The complaint asks, why would the judges “ignore the top Trial Lawyer” except because “[i]t is a conspired ruling.” The complainant further asserts that he is not attacking the merits of the judges’ decisions but rather the fact that they “conspir[ed] . . . with other courts to make a particular ruling.”

The complainant may be correct that “an allegation that a judge conspired with [others] to make a particular ruling is not merits-related, even though it ‘relates’ to a ruling in a colloquial sense. Such an allegation attacks the propriety of conspiring with [others] and goes beyond a challenge to the correctness — ‘the merits’ — of the ruling itself.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 4 Commentary ¶ 13. As was the case in No. DC-20-90055, however, the complainant’s assertion that the subject

judges conspired with the defendant agency, a federal Court of Appeals, and the Supreme Court, lacks support other than the complainant's own beliefs. Thus, this complaint likewise is "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," and will be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).<sup>1</sup>

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<sup>1</sup> 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).