

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-21-90025

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: 12/16/21

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 filed a Freedom of Information Act (FOIA) action seeking records pertaining to a grand jury which had indicted him in a different District Court. Following an electronic database search, the government identified responsive records but withheld all of them in their entirety pursuant to various FOIA exemptions. The government moved for summary judgment with respect to the adequacy of the search, withholding of records, and segregability review. The subject judge granted the motion with respect to the adequacy of the search. The court, however, denied the motion with respect to the withholding and segregability issues, determining that, based on the government's declaration and *Vaughn* Index, the court could not "determine whether each withheld record, if disclosed, 'would tend to reveal some secret aspect of the grand jury's investigation.'" The subject judge further noted that the government could renew its motion with an updated declaration and *Vaughn* Index.

The government then moved for an extension of time to file a renewed motion for summary judgment, which the subject judge granted, extending the due date to July 1, 2020. On the date the renewed motion was due, the government filed a second motion for extension of time. The subject judge again granted the motion, directing that the renewed motion for summary judgment be filed by August 4, 2020. Meanwhile, the complainant filed a motion for summary judgment asserting that the government had not complied with the subject judge's

order directing the government to file any summary judgment motions by July 1, 2020. The subject judge denied the complainant's summary motion, noting that the court had extended defendant's deadline for renewing its motion to August 4, 2020. The government then filed a third motion for an extension of time, which the subject granted, extending the filing deadline to August 11, 2020. On the date the motion for summary judgment was due, the government instead submitted a status report. The government explained that it had released the complainant's initial and superseding indictments and asserted that there were no remaining issues for the court to address in light of the release of documents. The subject judge then directed that the government should file a renewed motion for summary judgment, or that the parties should file a stipulation of dismissal if they agreed on that disposition after meeting and conferring. Citing complications with the mail and with conferring with the complainant who was incarcerated, the government moved for an extension of time to enable it to discuss the proposed stipulation of dismissal with the complainant. The subject judge granted the motion and extended the deadline for filing the renewed motion for summary judgment to September 30, 2020.

The government then filed a motion to dismiss, asserting that all responsive documents had been provided to the complainant and that the action thus was moot. The subject judge denied the motion, noting that, while the government had released the indictment and superseding indictment, they still had not provided the updated declaration and *Vaughn* index to support a finding that the other documents had been properly withheld. The subject judge then gave the government one last chance to renew its motion for summary judgment with an

updated declaration and *Vaughn* index, stating that no additional extensions of time would be granted absent extraordinary circumstances. The government timely filed its renewed motion for summary judgment, and that motion remains pending.

The complainant has now filed a misconduct complaint against the subject judge, alleging that “[r]equests petitioned by the Plaintiff were discriminatively denied in favor of the Defendants.” The complainant asserts that the “Defendant was granted numerous frivolous enlargements, and multiple opportunities to correct its/renew its motion for summary judgment. But the Plaintiff’s request for summary judgment was denied immediately.” Additionally, the complainant argues that the subject judge took it “upon him or herself to willfully give an enlargement of time,” thus “allow[ing] and/or favor[ing] one party over the facts” and “[f]ailing to afford the Plaintiff the Due Process rights as well as the equal and fair judicial proceedings creat[ing] a bias hearing.”

The complainant’s allegations are a direct challenge to the subject judge’s orders extending time and denying summary judgment, and thus “call[] into question the correctness of [the] judge’s ruling[s].” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 4(b)(1). Such an allegation does 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). Moreover, the complainant has provided no evidence of bias other the fact that the subject judge ruled in favor of the defendant and against the complainant. To the extent the complainant is challenging the denial of his motion for summary judgment, that motion was based on the complainant’s belief that the government had failed to comply with

filing deadlines. The complainant provided no evidence that the subject judge’s decision on the motion was made with an improper motive. Consequently, the allegation of bias “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.”

JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D).

Accordingly, because the complaint “is directly related to the merits of [the judge’s] decision,” and “lack[s] sufficient evidence,” 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).