

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-21-90028

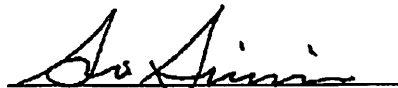
Before: Srinivasan, Chief Judge

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: 1/13/22

No. DC-21-90028

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 brought an action against various government officials in their individual and official capacities, seeking declaratory and injunctive relief for “unconstitutional acts and practices” by allegedly destroying his passport without due process and conducting unlawful searches of his property. The complainant’s counsel suffered a stroke and the case was held in abeyance pending counsel’s recovery. After reactivation of the case, the complainant’s counsel moved to withdraw as counsel, noting that funds provided to her had been depleted by services and expenses and that additional funds had not been provided. She also explained that, while she had been medically cleared to return to work part time, she was unable to continue with this case as part of her practice, which is limited to domestic relations and criminal matters. Counsel additionally noted that, although she had identified someone she thought would be a suitable replacement counsel, the complainant had not provided the funds to retain new counsel.

She then requested that the court stay the matter until the complainant obtained new counsel or elected to proceed *pro se*. Counsel also certified that she had to email the complainant a copy of the motion to withdraw because the complainant had failed to provide his mailing address after she requested it. She further certified that she advised the

complainant to obtain new counsel, or, if he intended to conduct the case *pro se* or to object to the withdrawal, to so notify the Clerk in writing within five days of service of the motion.

The next day, the subject judge granted the motion to withdraw “in light of [counsel’s] medical restrictions.” The order further directed the complainant to inform the court whether he had obtained replacement counsel or would instead proceed *pro se*. A month later, the complainant filed a motion opposing counsel’s motion to withdraw. The complainant contended that the motion did not comply with the local rules because he had not received a paper copy of the motion or consented to electronic receipt, and the motion lacked a certificate of service listing his last known address. He further alleged that the motion was “predicated on fraud and an attempt to mislead this court.” The case remains pending and no further action has been taken.

The complainant has now filed the instant judicial misconduct complaint against the subject judge, asserting that her failure to afford him the opportunity to object to the motion to withdraw demonstrates bias. He also wonders “what improper inducements were received by [the subject judge] to aid and abet the fraud on the Court by ruling so quickly.” He asserts that “[t]his is NOT a complaint about the merits of the decision, which are atrocious enough, but about the prejudicial egregious conduct preceding the decision that allowed a US District Judge not only to ignore gross defects in a pleading that violated [rules] that she is sworn to uphold, but also to engage in conduct that aided and abetted the fraud perpetrated on the Court while trampling on my rights as a litigant.” The complainant reiterates that his counsel’s motion did not comply with the local rules and thus should have been denied.

Despite the complainant's assertions to the contrary, his allegations amount to direct challenges to the subject judge's decision to grant the motion to withdraw, and thus "call[] into question the correctness of [the] judge's ruling." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 4(b)(1). Even assuming there was "egregious conduct preceding the decision," that conduct, per the complainant's allegations, was undertaken by his counsel in seeking to withdraw from the representation, not by the subject judge. With regard to the subject judge, the complainant's challenge ultimately is to the judge's decision to grant a motion that he believes should have been denied. Such an allegation about the merits of a judge's decision does not involve "[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's assertion that the subject judge's failure to allow him time to respond to the motion demonstrates bias is without merit. While the subject judge ruled on counsel's motion to withdraw prior to the complainant's response being filed, that fact alone does not "raise an inference that misconduct has occurred" or demonstrate bias. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, because the complainant's allegations are either "directly related to the merits of a decision or procedural ruling" or "lack 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).