

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-21-90030

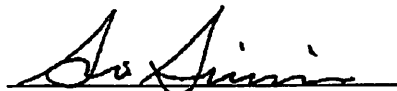
Before: Srinivasan, Chief Judge

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: 11/13/22

No. DC-21-90030

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, who is not a party to any litigation before the district court, has filed a judicial misconduct complaint asserting that the subject judge acted in a partisan manner.

The complainant states, in its entirety:

According to news reports on CNN, the judge overtly stated he will use his political viewpoint regarding the Capitol riot as a factor in his decision on whether and how much to sentence certain defendants who participated. The judge stated or clearly implied that if the political viewpoint of the particular defendant does not match with the judge's political view, because the defendants at issue feel the election was rigged and stolen from Trump in many states and they had a right to protest in the Capitol (especially when police officers were waving them into the building), he indicated he intends to sentence them for longer terms for any crime committed. These are inappropriate statements and insinuations for an impartial judge to make. It is also clear this judge has been on the bench too long and has lost touch with reality in this country.

The complaint does not identify any specific news report apart from its general reference to "news reports on CNN," does not attach any news report, and does not quote any statement of the subject judge. As a result, the complaint does not identify specific conduct on the part of the subject judge that could raise an inference of misconduct. At any rate, to the extent the complainant intends to challenge the language the subject judge used in connection with a criminal sentencing decision, the Judicial Conference has explained that, "[b]ecause of the special need to protect judges' independence in deciding what to say in an

opinion or ruling,” if a judge’s “language was relevant to the case at hand – for example, a statement that a claim is legally or factually ‘frivolous’ – then the judge’s choice of language is presumptively merits-related and excluded, absent evidence apart from the ruling itself suggesting an improper motive.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 4 Commentary at ¶ 15. As there is no evidence suggesting an improper motive (other than the complainant’s conclusory characterization that the subject judge stated “he will use his political viewpoint regarding the Capitol Riot as a factor in his decision”), the judge’s statements when imposing a criminal sentence presumably would have been “directly related to the merits” of the sentencing decision and thus would not constitute “cognizable misconduct.” JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(1).

Accordingly, because the complaint is “directly related to the merits of a decision”, it will be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).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).