

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-22-90001

Before: Srinivasan, Chief Judge

ORDER

Upon consideration of the complaint herein, and the supplement thereto, 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: January 4, 2023

MEMORANDUM

The complainant has filed a complaint of judicial misconduct, and a supplement thereto, 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 three cases in the district court alleging various species of securities-related fraud. The subject judge dismissed all three lawsuits. Unhappy with the subject judge's rulings in his three cases, the complainant also unsuccessfully filed a suit against the subject judge, and that suit was dismissed based on judicial immunity. The complainant has now filed a judicial misconduct complaint against the subject judge.

As to her handling of the complainant's first case, the complainant simply alleges that the subject judge "seems [to have] no . . . knowledge of these security laws at all." With respect to complainant's second case, the complainant again argues that the subject judge lacked an understanding of the applicable law. The complainant also asserts that the judge "never touched [an] issue" he raised, "ignored" his motion to recuse, "violated basic judicial operation standard to deny the merits under without jurisdiction," and immediately dismissed a motion on the same day it was received. He further contends that the subject judge was biased and prejudiced against him as ostensibly evidenced by the facts that she dismissed his complaint "with implied prejudice" and improperly used "character evidence" when she referred to his "successive, frivolous, and vexatious filings." As to the subject judge's handling of the third case, the complainant alleges that the judge "only made [a] general denial for every

count, never judged by any securities laws or false corporation identity.”

The complainant also filed a supplement to the complaint, alleging that after the filing of his complaint, the subject judge improperly denied him leave to file pleadings in his third case. The complainant asserts that the subject judge should recuse from considering his cases “because she already rejected to accept the filings, which is the basic job of every judge.”

The complainant’s primary allegations, that the subject judge was unfamiliar with securities law, ignored issues and motions, and improperly dismissed his complaints on the merits or prematurely, are direct challenges to the judge’s procedural rulings as well as her decision to dismiss the complaints. Those allegations 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). Similarly, the complainant’s assertion that the subject judge improperly denied him leave to file pleadings in his third case is a direct challenge to her decision to reject his filings. Those sorts of allegations about the merits of the subject judge’s decisions do 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).

To the extent the complainant contends that the subject judge was biased or prejudiced against him, that claim must also be dismissed. The complainant fails to provide any evidence to support his claim of bias, relying instead on his own characterization of the judge’s statement of the facts. As to the subject judge’s reference to the complainant’s litigation history, 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.” JUDICIAL-CONDUCT PROCEEDINGS RULE 4 Commentary at ¶ 15. Because there is no evidence here suggesting an improper motive, the subject judge’s description of the complainant’s litigation history is “directly related to the merits” of the decision and thus does not constitute “cognizable misconduct.” JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(1). As a result, the bias allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

Finally, to the extent the complainant seeks to challenge the subject judge’s decision not to recuse from the complainant’s cases, any such argument is without merit. Allegations that a judge committed misconduct by failing to recuse are generally dismissed as merits related. *See* JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(1) (“Cognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse”). “A failure to recuse may constitute misconduct only if the judge failed to recuse for an improper purpose.” *In re Judicial Misconduct*, 605 F.3d 1060, 1062 (9th Cir. 2010). The complainant has provided no evidence of a failure to recuse for an improper purpose. While the complainant notes the subject judge’s decision to deny the complainant leave to file certain pleadings, that action does not provide a basis for recusal.

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).