

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-22-90027

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 12, 2023

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 complaint against two credit unions and a state employment commission, alleging that the defendants improperly deprived him of his unemployment benefits. The subject judge *sua sponte* determined that venue was improper in the District of Columbia because the defendants were located in Virginia, the events or omissions that gave rise to the claims did not occur in the District of Columbia, and the action could have been brought in the Eastern District of Virginia. The subject judge directed that the case be transferred to the District Court for the Eastern District of Virginia in the interests of justice.

Before the transfer of the case, the complainant filed: a motion for a temporary restraining order and a motion for preliminary injunction, seeking to stop the defendants from allegedly threatening, harassing, intimidating, and humiliating the complainant; an amended complaint; a "Transfer Notice Response" in which the complainant stated that, "while Petitioner choose to commence this action in the District of Columbia, he will adhere to what the court decide"; a second motion for a temporary restraining order; and a motion for a CM/ECF password. The subject judge granted leave to file those pleadings but did not act on their merits.

Subsequently, the case was electronically transferred to the District Court for the Eastern District of Virginia using a method called “extraction,” under which the electronic files from the District of Columbia District Court were electronically transferred to the transferee court through the CM/ECF system. After the case was electronically transferred, the complainant continued to attempt to file pleadings in the District of Columbia District Court, but the subject judge denied leave to file those pleadings, noting that the case had been transferred. After the subject judge denied leave to file three pleadings over the course of two months, the subject judge issued an order denying as moot the motions he had previously granted leave to file and directing the Clerk not to accept any further filings in the case. The subject judge also directed the complainant to file any renewed motions or other case filings in the transferee court in the Eastern District of Virginia.

The complainant has now filed the instant misconduct complaint against the subject judge, claiming that the judge improperly transferred the case. The complainant asserts that “[t]ransfer should not be made at an early stage[] of a case before it is determine just what issues are going to be presented.” The complainant further alleges that the subject judge knowingly transferred the complaint to a court that “is predisposed to rule in favor of defendants” and that the transfer was “motivated by bias and discriminatory [sic] against petitioner.” The complainant also claims that the subject judge acted inconsistently by initially granting his motions for a temporary restraining order and his “Transfer Notice Response” but subsequently denying them.

In a supplement to the complaint, the complainant alleges that his complaint “is not about an error ruling by [the subject judge].” The complainant claims that his complaint is about what happened after the subject judge ordered the transfer of the case, including the fact that the case was sent to the other district court “via extraction.” The complainant asserts that the “extraction of the case . . . constitute[s] an obstruction of case proceedings,” as he did not get notice of the extraction and the subject judge did not issue an order directing that the case be extracted. As evidence of ostensible misconduct, the complainant alleges that the transferee court stated that the case had been transferred at the complainant’s request in noting that the case was transferred “pursuant to order transferring Pro Se Case.” The complainant further notes that the transferee court stated that the case had been transferred “sua sponte” while the subject judge had said the case was transferred by minute order. The complainant argues that these alleged inconsistencies are cognizable misconduct.

Although the complainant claims that he is not challenging the subject judge’s decision to transfer the case, he alleges at the outset that the transfer was improper. This allegation is “directly related to the merits of a decision or procedural ruling,” and thus cannot give rise to a finding of judicial misconduct. See JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(B); 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant’s allegation that the subject judge’s decision to transfer the case demonstrates bias is without merit. The complainant has provided no support for this allegation other than his own beliefs that the transferee court would be predisposed to rule against him. The complainant’s assertions of inconsistencies in the manner in which the

subject judge and the receiving court characterized the transfer are without merit. The subject judge transferred the case on his own initiative and issued a minute order to that effect. The transferee district court stated (consistently) that the case had been transferred pursuant to an order from the subject judge. Furthermore, while the subject judge did grant the complainant leave to file certain pleadings after ordering that the case be transferred, he did not act on the merits of those pleadings before the transfer of the case. And because the pleadings did not challenge the transfer order, the Clerk's Office appropriately proceeded with the physical transfer of the case. After the transfer, the subject judge denied as moot the complainant's pleadings because the judge no longer had jurisdiction over the case. In these circumstances, the fact that the subject judge did not resolve the pleadings on their merits is not evidence of any misconduct. These allegations thus "lack[] sufficient evidence to raise an inference that misconduct has occurred" and will be dismissed. See JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); 28 U.S.C. § 352(b)(1)(A)(iii).

Contrary to the complainant's allegations, moreover, the fact that the case was "extracted" is not evidence of judicial misconduct. When a judge orders the transfer of a case to another jurisdiction, a case administrator in the Clerk's Office is responsible for effectuating that transfer. The process of extracting the case is a procedural device by which the transferring court electronically transfers the pleadings in a case to the transferee court. Thus, not only was the extraction of the case not an action taken by the subject judge, but it is also an ordinary method for electronically transferring a case to another jurisdiction. The subject judge did not need to specifically order an "extraction" as that was merely the

administrative method of implementing to the order transferring the case.

Accordingly, because the complaint “is directly related to the merits of [the judge’s] decision,” and is “based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” 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).