

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-22-90036

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: 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 civil suit against multiple defendants, including four individuals. The complainant then sought to have the subject judge recused, asserting that the judge may have worked with a correctional officer who was one of the subjects of the complaint. Meanwhile, the defendants who were not individuals filed motions to dismiss the complaint. The subject judge directed the complainant to respond to the motions to dismiss or the court would treat the motions as conceded. The subject judge subsequently denied the motion to recuse, stating that he had no knowledge of the officer in question. The subject judge also sua sponte dismissed the complaint against the four individuals, finding that the complainant had failed to file proof of service on those individuals. The complainant then filed an interlocutory appeal of the order denying recusal and dismissing the complaint as to the four individuals. When the complainant failed to respond to the motions to dismiss, the subject judge granted the motions to dismiss as conceded.

The Court of Appeals referred the complainant's motion to appeal in forma pauperis to the subject judge for resolution in the first instance. The subject judge denied the complainant's motion for leave to appeal in forma pauperis as moot, finding that the entry of final judgment rendered the interlocutory appeal moot. The Court of Appeals has since directed the complainant to pay the filing fee or risk dismissal of the appeal for lack of prosecution.

The complainant has now filed the instant misconduct complaint against the subject judge. The complainant alleges that the subject judge “deliberately ruled in the favor of the federal defendants in furtherance of a racket and scheme involving the AZD1222 study being administered at several Veteran Affairs Administration facilities,” and that the judge’s decision “is being made under the direction of the AG S. District NY in furtherance of a racketeering scheme.” The complainant further claims that he had properly effected service and that the subject judge’s dismissal order was “unjust.”

To the extent that the complainant is asserting that the subject judge was perpetuating a racketeering scheme by dismissing the case, that allegation is without merit. The complainant has failed to provide any support for this allegation other than his own beliefs that he had properly effected service and that any determination to the contrary thus must be part of a “scheme.” Accordingly, this allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(D); 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent the complainant is challenging the merits of the subject judge’s order dismissing the complaint against the individuals for failure to effect service of process, that allegation is a direct challenge to the subject judge’s dismissal order, and thus “calls into question the correctness of [the] judge[’s] ruling.” JUDICIAL-CONDUCT PROCEEDINGS 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).

Accordingly, because the complaint “is directly related to the merits of [the subject 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).