

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-23-90045

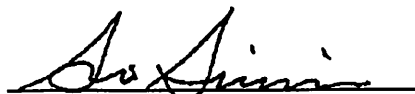
Before: Srinivasan, Chief Judge

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: 3/27/24

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 pro se complaint in the Superior Court of the District of Columbia against a government agency. The agency removed the case to the district court pursuant to 28 U.S.C. §§ 1442(a)(1) and 1446, which permit the United States, its agencies, and federal employees to remove to federal court a civil action commenced against them “in a State court.” The complainant filed a motion to file electronically, which the subject judge denied without prejudice to reconsidering a renewed motion that fully complied with the District Court Local Civil Rule 5.4(b). The agency subsequently moved to dismiss the complaint for lack of subject-matter jurisdiction and for failure to state a claim upon which relief can be granted. The complainant then filed a flurry of motions, including a motion for summary judgment and various motions requesting that the district court take certain actions.

The subject judge ultimately granted the agency’s motion to dismiss without prejudice and denied as moot the complainant’s pending motions, including a second motion for electronic filing. The judge determined that, under the derivative jurisdiction doctrine, dismissal was warranted because the Superior Court did not possess subject-matter jurisdiction at the time of removal. Specifically, the judge found that the Superior Court never acquired jurisdiction over the subject matter or over the agency as an employing agency. The complainant sought reconsideration and asked that his case be sent to the United States

Supreme Court, which the judge denied. The complainant noted an appeal, which was ultimately dismissed for lack of prosecution. The complainant also filed or attempted to file a number of additional post-judgment motions, all of which the judge denied.

The complainant has now filed a judicial misconduct complaint against the subject judge. The complainant alleges that he submitted a “Constitutional motion” for “digital/electronic public accommodations” and that the judge “ordered the case closed, without responding to the Constitutional motion, in spite of the fact that this is an employment/EEO case where I filed summary judgment.”

In challenging the judge’s dismissal of his motion for electronic filing as moot, the complainant is directly challenging the merits of the subject judge’s decision. “Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge – without more – is merits-related.” JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 4(b)(1) Commentary ¶ 12. Such an allegation does not constitute “[c]ognizable misconduct” under the Judicial-Conduct Proceedings Rules or the applicable statute. *Id.* Rule 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii). Accordingly, because the complaint “is directly related to the merits of [the judge’s] decision,” the complaint will be dismissed. JUDICIAL-CONDUCT PROCEEDINGS 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 of 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).