

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-24-90001

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: June 5, 2024

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 alleges that the subject judge's "actions and words" have resulted in the judge's violating all five of the Canons of the judicial Code of Conduct during her handling of a pending criminal case. The complainant is not a party in that case. Specifically, the complainant alleges that the judge's issuance of a gag order against the defendant in the pending case "shows she lacks balance and impartiality." The complainant further asserts that the judge's "words and actions show her vitriol hatred for" the defendant and that she has failed "to restrain herself from her own personal political biases." As ostensible evidence of the judge's biases, the complainant points to statements made by the judge in two previous cases when sentencing defendants who had been convicted of offenses for their actions at the United States Capitol on January 6, 2021. According to the complainant, the judge stated that the rioters at the Capitol "were there in fealty, in loyalty, to one man – not the Constitution" and showed "blind loyalty to the one person . . . who, by the way, remains free to this day." The complainant further contends that the judge stated that the defendant in the pending case was "responsible for the crimes on that day [January 6th]." The complainant claims that the judge's statements and her refusal to recuse herself in the pending case demonstrates that she "has broken all five canons."

The complainant's allegation that the subject judge's gag order itself evidences the judge's bias in the pending case is "directly related to the merits of a decision or procedural ruling," and thus does not constitute "[c]ognizable misconduct" under the Judicial-Conduct Rules. JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 4(b)(1) Commentary ¶ 12; see *id.* 11(c)(1)(B); 28 U.S.C. § 352(b)(1)(A)(ii). To the extent the complainant alleges that the judge's statements when sentencing defendants in two other cases and her failure to recuse from the pending case constitute further evidence of bias, that allegation is also without merit. That allegation goes directly to the merits of the subject judge's decision to deny the defendant's motion to recuse the judge from the pending case. That motion relied on the same statements now cited by the complainant, and the judge denied the motion. 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.").

The only exception permitting consideration of such a merits related challenge is if the decision resulted from an "improper motive." *Id.* The complainant, however, has failed to provide any evidence demonstrating an improper motive. The complainant instead ultimately disagrees with the judge's decision not to recuse. The complainant thus fails to provide sufficient evidence of misconduct. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, because the complaint “is directly related to the merits of [the subject judge’s] decision[s],” and “lack[s] 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 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).