

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

**In the Matter of
A Complaint of Judicial
Misconduct or Disability**

Complaint No. DC-24-90035

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: April 4, 2025

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 in the U.S. Court of Federal Claims. The United States subsequently filed a motion to dismiss for lack of subject matter jurisdiction because the Court of Federal Claims lacked jurisdiction to entertain claims under the Federal Tort Claims Act, 28 U.S.C. § 2675(a), which appeared to be the basis for the complainant's suit. After the complainant filed an unopposed motion to transfer, the Court of Federal Claims transferred the case to the District Court.

Before the government's deadline for filing a responsive pleading in the district court, the complainant filed a motion for default judgment, arguing that the government "has totally failed or refused to answer or otherwise defend" this action. The complainant subsequently filed three additional motions for default judgment. Meanwhile, the complainant filed a Consent for Electronic Filing, and her motion for a CM/ECF password certifying that she had the capacity to file documents and receive filing electronically was granted. The subject judge then issued an order stating that "The Government is reminded to answer the Complaint in this action. The court declines for now to rule on Plaintiff's motions for default judgment." The government then entered an appearance and filed a motion for extension of time to file an answer or to otherwise respond to the complaint. The complainant opposed the motion for extension of time,

moved to strike the notice of appearance, and moved for a preliminary injunction.

The subject judge issued orders granting the government's motion for extension of time, denying the complainant's motions for default judgment, and denying the complainant's motion to strike. The judge entered a further order noting that the complainant had repeatedly filed the same motions on the docket even though the court had granted the government's motion for an extension of time. Thus, the subject judge ordered that the complainant was not to file anything additional on the docket until the government filed its response to the complaint or unless the complainant first sought leave of the court.

The complainant has now filed a judicial misconduct complaint against the subject judge alleging that the judge engaged in *ex parte* communications with the government. Specifically, the complainant asserts that the subject judge's "reminder to answer" order was issued *ex parte* and that the government's motion for an extension of time was filed *ex parte*. Furthermore, the complainant alleges that the case manager was poised to grant her motion for default but the court "rescinded" the case manager's authority to process the default order. The complainant additionally claims that she has been "excluded from the conversation regarding plausible excuse or excusable neglect arguments content of good cause if any of the Defendant, and none has been provided or presented by Motion to be responsive to the Plaintiff instead made internally to the Court."

To the extent the complainant alleges that the subject judge engaged in *ex parte* communications with the government, the complainant has failed to provide any evidence

of judicial misconduct apart from her own unsupported beliefs. Moreover, because the complainant receives copies of all filings electronically through the CM/ECF system, she received email notifications of the docketing of the subject judge's orders and the government's filings. When participating in CM/ECF, there is no requirement that paper filings be served on the parties, and a *pro se* party granted leave to use CM/ECF consents to electronic service of all documents. See Rules of the U.S. District Court for the District of Columbia, Rule 5.4(b)(6) ("An attorney or *pro se* party who obtains a CM/ECF password consents to electronic service of all documents, subsequent to the original complaint, that are filed by electronic means pursuant to Fed. R. Civ. P. 5(b)(2)(E). Such counsel and *pro se* parties are responsible for monitoring their e-mail accounts, and, upon receipt of notice of an electronic filing, for retrieving the noticed filing.") and Rule 5.4(d)(1) ("Electronically filing a document operates to effect service of the document on *pro se* parties who have obtained CM/ECF passwords and on all counsel."). A review of the district court docket shows that electronic notice of the court's orders and the governments filings were sent to the email address the complainant provided when she filed her motion for CM/ECF password. Thus, the complainant's allegations of *ex parte* contacts "lack[] sufficient evidence to raise an inference that misconduct has occurred." See JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent the complainant alleges that the subject judge improperly denied her motion for default judgment or somehow interfered with the Clerk's Office's entry of a

default judgment, that claim is also without merit. The allegation appears to be a direct challenge to the merits of the judge’s order denying the motion for default judgment. “Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge – without more – is merits-related.” JUDICIAL-CONDUCT 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.* Moreover, the subject judge specifically ruled that she was not going to consider the motion for default judgment until the government had an opportunity to respond to the complaint, and the complainant filed her first motion for default judgment prior to the government’s deadline for filing a responsive pleading. The government subsequently entered an appearance and the subject judge extended the deadline for the government’s response to the complaint. In addition, as the judge noted in her order denying the motions for default judgment, not only was this not a case where the government “failed to plead or otherwise defend,” *see* Fed. R. Civ. P. 55(a), but the complainant also had failed to establish a “claim or right to relief by evidence that satisfies the court,” *see* Fed. R. Civ. P. 55(d), a requirement for default judgments against the United States. Thus, these allegations “lack[] 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).

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