

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90008

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY

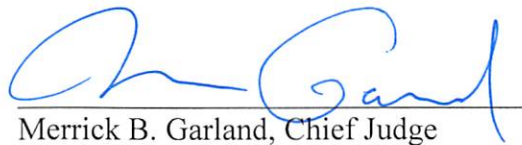
Before: GARLAND, *Chief Judge*

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 11(g)(2).



Merrick B. Garland, Chief Judge
District of Columbia Circuit

Date: 8/30/17

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 suit in U.S. District Court against the Mayor of the District of Columbia and the D.C. Court of Appeals Committee on Admission, alleging that he was improperly denied the opportunity to take the District of Columbia bar exam for the fifth time. The complainant had previously filed suit in D.C. Superior Court challenging the denial, and that complaint was dismissed. He also filed a similar challenge with the District of Columbia's Office of Risk Management, which was also dismissed.

The subject judge dismissed the complainant's lawsuit, concluding: that the Superior Court's decision was final and unreviewable in federal court; that even if that decision were not final, a federal court was barred from considering the complainant's claims under the abstention doctrine; and that, in any event, the complainant's claim was barred by the doctrine of res judicata. The complainant then filed a motion for reconsideration, which the subject judge denied. The complainant has appealed the dismissal order and that appeal remains pending.

The complainant has now filed the instant judicial misconduct complaint against the subject judge, alleging numerous deficiencies in the judge's orders granting the motion to dismiss and denying the motion for reconsideration. The complainant alleges that the orders reflect, inter alia: a failure to acknowledge a ruling of the D.C. Court of

Appeals; “incompetence in the law”; and the improper denial of his discovery requests. All of these and similar allegations are “directly related to the merits” of the subject judge’s decisions and procedural rulings. Accordingly, they do not constitute “cognizable misconduct” under the Judicial-Conduct Rules and must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULES 3(h)(3)(A), 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant also alleges that the judge’s “disdain for plaintiff was so intense that the prejudice would almost jump off the page at you while it was read as was clearly demonstrated in document G.” The document that the complainant identifies as “document G” is the judge’s order denying the complainant’s motion for reconsideration under Federal Rule of Civil Procedure 59(e). The order consists of a single paragraph, the relevant part of which reads as follows:

[T]o succeed on such a motion, “the moving party [must demonstrate] new facts or clear errors of law which compel the court to change its prior position.” *Nat’l. Ctr. for Mfg. Scis. v. Dep’t of Def.*, 199 F.3d 507, 511 (D.C. Cir. 2000). Plaintiff’s motion . . . fails to demonstrate any such new facts or clear errors of law that would entitle Plaintiff to relief under Rule 59(e). Accordingly, Plaintiff’s Motion for Reconsideration is denied.

In light of this text, the complainant’s allegation of judicial disdain “lack[s] sufficient

evidence to raise an inference that misconduct has occurred” and must also be dismissed.

JUDICIAL-CONDUCT RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).¹

¹ Pursuant to 28 U.S.C. § 352(c) and Judicial-Conduct 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 of the date of the Circuit Executive’s letter transmitting the dismissal Order and this Memorandum. JUDICIAL-CONDUCT RULE 18(b).