

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaints No. DC-23-90042
No. DC-23-90043
No. DC-23-90044

Before: Srinivasan, Chief Judge

ORDER

Upon consideration of the complaint herein, filed against three judges of the United States Court of Appeals for the District of Columbia Circuit, 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 judges, 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: December 28, 2023

No. DC-23-90042
No. DC-23-90043
No. DC-23-90044

MEMORANDUM

The complainant has filed a complaint of judicial misconduct against three judges of the United States Court of Appeals for the District of Columbia Circuit. For the following reasons, the misconduct complaint will be dismissed.

The complainant, proceeding pro se, filed a complaint against the United States and numerous other state and local actors alleging a conspiracy related to his prosecution in another federal district court for the death of his wife. The district court sua sponte dismissed the complaint with prejudice, concluding that the complaint was frivolous and that the complainant had failed to follow the vexatious-litigant procedures established in another district court's order that bar him from filing a suit without leave of that court.

The complainant appealed, moved for the appointment of counsel, and filed a brief that recounts a variety of actions that have allegedly been taken against him between 1987 and 2022. Two groups of defendants filed briefs arguing that the district court should be affirmed. The complainant then moved for default judgment, seemingly on the basis that he had not received filings from many of the defendant-appellees. The complainant also filed a reply brief, in which he set forth his belief that the United States and one of the defendant-appellees have allowed "subordinates" to conspire against him.

The court of appeals denied the complainant's motion for appointment of counsel and for default judgment and affirmed the district court's dismissal order. The court noted that the

complainant had failed to raise any argument concerning the merits of the district court's dismissal and thus had forfeited any such challenge. Moreover, the court determined that the district court had not erred in dismissing his action for failing to comply with the vexatious-litigant procedures to which he is subject.

The complainant has now filed a judicial misconduct complaint against the three court of appeals judges comprising the panel that affirmed the dismissal of his complaint. The grounds set forth in the complaint are difficult to discern, but the complainant appears to be challenging the basis of the court's judgment affirming the district court. The complainant alleges that the judges do not "underst[and] Federal Rule of Civil Procedure Rule 60 or May have selectively adjoined the violators to discriminate without discovery by not allowing evidence." The complainant further states that it was "[m]isconduct or [d]isability to state that this appellant did not follow or include ingredients." He also asserts that the "Court of Appeals has made no reference to Anything about the appellants appeal."

In challenging the court of appeals' application of the rules, its failure to allow the submission of evidence, or its failure to "reference" the appeal, the complainant is directly challenging the subject judges' decision in his appeal. "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.* Accordingly, because the complaint 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)(D); *see* 28 U.S.C. § 352(b)(1)(A)(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).