

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90090

A Charge of Judicial Misconduct or Disability

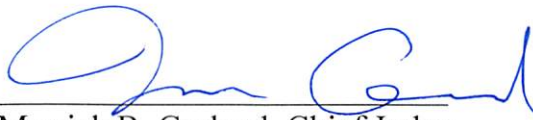
Before: GARLAND, *Chief Judge*.

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 (2019), RULE 11(g)(2).



Merrick B. Garland, Chief Judge

Date: 4/30/19

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 the district court against the District of Columbia, federal agencies, and individuals. He sought \$1 million in damages for injuries suffered when he “had slipped and had fallen on the . . . public sidewalks and public sidewalks’ curbs that were directly adjacent to” a U.S. Post Office, as well as for the failure of postal employees to assist him after the fall. The suit asserted four claims: negligence, intentional infliction of emotional distress, violation of the Rehabilitation Act, and violation of the Fourteenth Amendment.

The case was assigned to the subject judge, who granted in its entirety the District of Columbia’s motion to dismiss, granted the United States’ motion to dismiss with respect to the Rehabilitation Act and constitutional claims, and denied the complainant’s motions to vacate certain earlier orders and to transfer the case to the District of Maryland. The complainant filed a notice of appeal in the U.S. Court of Appeals for the District of Columbia Circuit.

The subject judge then ordered the remaining defendants to answer the complaint, notwithstanding the appeal. The court stated that it retained jurisdiction over the case because the notice of appeal “improperly seeks interlocutory review of an order that is

clearly non-appealable.” Meanwhile, the Court of Appeals granted the complainant’s request for more time and ordered him to respond to motions to dismiss the appeal within 45 days. The Court of Appeals warned the complainant that failure to comply with the order would result in dismissal of the appeal for lack of prosecution. When the complainant failed to respond, the Court dismissed the appeal for failure to prosecute and denied the request for a transfer.

Thereafter, the federal government filed a motion to dismiss in the district court for lack of prosecution. The subject judge ordered the complainant to respond to the motion to dismiss or face dismissal for failure to prosecute, noting that “[t]his is Plaintiff’s final opportunity to litigate this matter.” The complainant did not respond to the motion to dismiss but instead filed a motion to vacate the judge’s order. The judge then dismissed the complaint with prejudice and denied as moot the motion to vacate and the motion to transfer the case.

The complainant has now filed a judicial misconduct complaint against the subject judge. The complaint states:

Due to my Islamic religious beliefs, my well known and well documented physical disabilities, my Black African American Race, and et cetera, I was continuously denied a court appointed attorney and meaningful and reasonable accommodations in order to assist my well known and well documented physical disabilities by a totally corrupt and totally racist and totally lying and totally anti-Islamic and the totally anti American with physical disabilities and the totally anti Black African American, and et cetera, so-called Judge.

The complaint does not cite, identify, or reference any evidence in support of these allegations against the subject judge. Nor can bias be shown merely by “call[ing] into question the merits” of the judge’s decisions. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1). Accordingly, because the complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” it will be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(D); *see id.* 11(c)(1)(B); *see also* 28 U.S.C. § 352(b)(1)(A)(ii), (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 after the date of the dismissal order. JUDICIAL-CONDUCT RULE 18(b).