

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-18-90020

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

Date: 10/25/18

MEMORANDUM

The complainant has filed a complaint of judicial misconduct against a judge of the United States District Court for the District of Columbia. The allegations rise out of a lawsuit the complainant filed that was assigned to the subject judge. For the following reasons, the complaint will be dismissed.

The complainant filed a civil lawsuit in the United States District Court for the District of Columbia seeking to recover funds from a trust account. The case was assigned to the subject judge, who dismissed the complaint on the ground that the complainant's claims were barred by res judicata. The subject judge also denied the complainant's motion to recuse the judge, finding that the complainant had failed to establish that the judge had a personal bias against him. Finally, the subject judge determined that the complainant was "a vexatious litigant" and enjoined him from filing future lawsuits in the district court without prior authorization from that court. The judge based that determination on his finding "that the plaintiff has filed at least 19 separate civil actions in this Court," many involving "duplicious" claims, "and the majority of which have been dismissed for lack of jurisdiction . . . or transferred to another district for lack of proper venue." The judge also based his determination on the fact that the Joint Panel on Multidistrict Litigation had enjoined the complainant from filing further lawsuits without its permission, based on the Joint Panel's review of the complainant's litigation "history in other U.S. Courts," including "96 separate civil actions . . . since 1999" and

the “patently frivolous nature” of the case then before the Joint Panel.

The complainant has now filed the instant judicial misconduct complaint, the fourth misconduct complainant he has filed against the subject judge. The complainant’s first allegation in this complaint is that the subject judge’s decision to enter an injunction barring the complainant from filing new cases absent leave of court was done in retaliation for the Court of Appeals’ decision to remand the complainant’s pro se case to the district court and because the complainant had filed an earlier judicial misconduct complaint against the subject judge. As evidence of that alleged retaliation, the complainant asserts that the injunction was “completely unjustified because he cites some of my cases to support his position, but those cases are outside his jurisdiction.”

The complainant made a similar allegation in an earlier judicial misconduct case that he filed against the same subject judge, which also alleged that the injunction was erroneous. That allegation was dismissed because it was “directly related to the merits of a decision or procedural ruling.” Mem. Op., Jud. Council Compl. No. DC-15-90027 (Dec. 9, 2015) (quoting JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 11(c)(1)(B)). Because the complainant has again failed to provide any evidence of retaliation beyond the alleged erroneous nature of the injunction, that part of the instant misconduct complaint must also be dismissed. JUDICIAL-CONDUCT RULE 11(c)(1)(B), (D), *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).

The complainant further requests that the subject judge be “barred from handling any matter of mine that comes before this Court. This is because this Court’s own Rule Book says that a petitioner’s case should be randomly assigned.” This is the third misconduct complaint the complainant has filed challenging the assignment of his cases to the subject judge. In the prior two instances the court found that the allegation “lack[ed] any specific evidence to demonstrate that the subject judge acted improperly and must be dismissed.” Mem. Op., Jud. Council Compl. No. DC-12-90040 (Sept. 12, 2012); *see* Mem. Op., Jud. Council Compl. No. DC-15-90027 (Dec. 9, 2015). The complainant has again failed to proffer any evidence of non-random assignment or other misconduct, and therefore that part of the instant complaint 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 dismissal order. JUDICIAL-CONDUCT RULE 18(b).