

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90002

**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: 7/31/2019

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 misconduct complaint states: “I am reading in the news and hearing from people who say they watched [a hearing] about [the subject judge] allegedly telling [a defendant] that he is a traitor and committed treason. How can a judge possibly be impartial to a defendant when the judge is clearly biased? While I wasn’t there, I request that your most law-abiding investigators look into this situation.”

The aforementioned news reports refer to statements the subject judge allegedly made at a sentencing hearing. Examination of the transcript of the hearing discloses that the judge made statements that were different from those that were reported to the complainant. *See* JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 11(b) (“In determining what action to take under Rule 11(a), the chief judge may conduct a limited inquiry. The chief judge . . . may obtain and review transcripts”)

The subject judge did not tell the defendant that he was a traitor or committed treason. Instead, he asked the prosecutor *whether* such charges could have been brought against the defendant. Crim. No. 17-232, Tr. 35-36 (Dec. 18, 2018). As the judge explained a few minutes later, “I wasn’t suggesting he’s committed treason.” *Id.* at 40. Rather, the judge said, he asked the questions “for the purpose of understanding the benefit, if any, that [the defendant] has received in the plea deal.” *Id.* The judge then reemphasized: “I’m not suggesting he committed treason.” *Id.* And the prosecutor then confirmed that “[t]he government has no reason to believe

that the defendant committed treason.” *Id.* at 41.

Because examination of the transcript discloses that no “misconduct has occurred,” the complaint will be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), 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 after the date of the dismissal order. JUDICIAL-CONDUCT RULE 18(b).