

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90031

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY

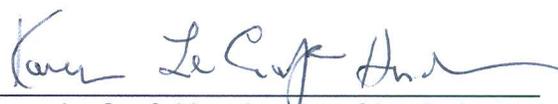
Before: HENDERSON, *Circuit Judge**

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. See 28 U.S.C. § 352(b)(1)(A)(ii), (iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D).

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).



Karen LeCraft Henderson, Circuit Judge
District of Columbia Circuit

Date: 8/22/16

* Acting pursuant to Rule 25(f) of the RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS.

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 a civil lawsuit in the United States District Court for the District of Columbia. The case was assigned to the subject judge, who entered an order staying discovery pending resolution of the defendants' motion to dismiss or, in the alternative, for summary judgment.

The complainant has now filed a judicial misconduct complaint against the subject judge, alleging the judge misapplied case law in the order staying discovery. As this allegation is "directly related to the merits of a decision or procedural ruling," it does not constitute "cognizable misconduct." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 3(h)(3)(A). Accordingly, this part of the judicial misconduct complaint must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant's allegations that the subject judge improperly delayed the case by granting the defendants' motions for extension of time and not providing him an opportunity to oppose the motions are "directly related to the merits of a decision or procedural ruling" or "lack[] sufficient evidence to raise an inference that misconduct has occurred." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).

Complainant also claims the subject judge is biased against him, as shown by the judge's statements during a status hearing. Those statements, however, do not provide

sufficient evidence to raise an inference that any misconduct has occurred. Therefore, this portion of the complaint must be dismissed as well. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii). Nor is there sufficient evidence to raise an inference that the subject judge engaged in misconduct by allegedly ignoring evidence that the defendants “perpetrated a fraud on the court.”

In summary, complainant’s allegations are “directly related to the merits of a decision or procedural ruling,” or otherwise “lack[] sufficient evidence to raise an inference that misconduct has occurred.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D). Accordingly, the complaint must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii), (iii).²

² Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL -DISABILITY 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 of the date of the dismissal order. *Id.* Rule 18(b).