

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-20-90020


Before: Srinivasan, 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).


Sri Srinivasan, Chief Judge

Date: 9/22/20

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 subject judge was assigned a criminal case. The complainant, who is not a party to the criminal case, states that he “work[s] in the Intelligence Community in oversight of Classified Intelligence.” He filed a misconduct complaint against the subject judge challenging the judge’s handling of the criminal case. Specifically, the complainant alleges that that the subject judge’s failure to immediately dismiss the charges against the defendant upon the government’s motion “would be explainable as political bias on his part.” He further asserts that the subject judge and President Obama had “a conference more than once . . . both at home and through Chambers, regarding the . . . prosecution and trial outcome. . . . I base this fact on information provided me by my own internal special access personnel as well as observations and judging the Judge by his conduct.” The complainant also argues that the subject judge’s appointment of amicus curiae is “politically partisan” and is done in an effort to assist and to protect President Obama.

The complainant is primarily challenging the subject judge’s appointment of amicus curiae. That allegation is a direct challenge to the judge’s order appointing amicus, and “calls into question the correctness of [the] judge’s ruling.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1). Such an allegation does not constitute “[c]ognizable misconduct” under the Judicial-Conduct Proceedings Rules or the applicable

statute. *Id.*; *see* 28 U.S.C. § 352(b)(1)(A)(ii). In addition, to the extent that the complainant is alleging that the subject judge acted in a partisan manner in concert with President Obama, this allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS Rule 11(c)(1)(D). The complainant’s “observations” and unsupported assertion that he has his own “special access personnel” do not substantiate a finding of misconduct. Moreover, the en banc Court of Appeals has determined that the subject judge’s conduct in the matter in question, including with regard to the appointment of amicus, has not “come[] close to meeting the ‘very high standard’ of ‘conduct so extreme as to display clear inability to render fair judgment,’” and thus reassignment to another judge was unwarranted. Accordingly, because the misconduct complaint “is directly related to the merits of a decision or procedural ruling,” and “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” it must be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (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).