

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90005

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)(iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(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: 7/31/17

* 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.

In 2008, 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 dismissed the case without prejudice for lack of prosecution in 2010. The judge later denied or dismissed as moot various motions filed by the complainant. In April 2016, the complainant filed a motion for clarification. The subject judge denied the motion as moot in November 2016.

In December 2016, the complainant filed a judicial misconduct complaint against the subject judge, in which the complainant asserted “there is no reason for the Judge to delay for eight months a decision on a Motion for Clarification unless he is trying to run out the deadline for my filing a new complaint” against the defendant. That judicial misconduct complaint was dismissed, as the complainant failed to provide any evidence of this improper motive.

In the instant judicial misconduct complaint, the complainant argues that, if the allegation of improper motive was unsupported, the only reasonable explanation for the eight-month delay in addressing the Motion for Clarification is diminished mental incapacity on the part of the subject judge. The complainant, however, has not provided any evidence of diminished mental capacity. As the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” it

must be dismissed. 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).¹

¹ 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).