

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-24-90002

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: June 5, 2024

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 suit alleging that her termination from employment amounted to unlawful discrimination and retaliation for her protected equal employment opportunity activity. The case was ultimately assigned to the subject judge.

Discovery proceeded in the district court, with the judge ordering the complainant to file a motion to compel on all remaining discovery disputes. The judge ultimately granted in part and denied in part the complainant's motion to compel. The complainant then filed a motion to sanction the defendant for not complying with the court's order and three separate motions for discovery. The defendant filed a motion to strike one of the discovery motions and to stay their obligation to respond or, in the alternative, to seal the discovery motion.

Eventually the judge denied the motion for sanctions, granted in part and denied in part the complainant's motion to compel, and denied defendant's motion to strike and motion for a status conference. The judge also directed the defendant to produce the outstanding discovery items within "the next 30 days" and to file any motion for summary judgment within "60 days from the date of this order." The defendant's counsel then sought the complainant's consent for an extension of time to file the motion for summary judgment until January 19, 2024.

Prior to the date the summary judgment motions would have been due, the judge ordered the parties to meet and confer and submit a proposed schedule to govern further

proceedings. The complainant then filed a motion for reconsideration of the meet and confer order, arguing that further delay would prejudice her and that the order was “issued at a convenient moment that favors Defendant counsel’s schedule. It is as though the Court was aware of Defendant counsel’s holiday schedule and sought to accommodate her personal needs.” The defendant then filed a motion for extension of time to move for summary judgment until January 19, 2024.

The subject judge granted the motion for extension of time, noting that, while the complainant expressed opposition to an extension of time, she did not file a written opposition to the motion. The judge subsequently denied the complainant’s motion for reconsideration, noting that most of the relief she sought was moot as a practical matter because the motion for extension had been granted. The defendant ultimately sought a second motion for extension of time and lodged the motion for summary judgment, which the judge granted *nunc pro tunc* for good cause shown. The motion for summary judgment remains pending before the court.

The complainant has now filed a misconduct complaint against the subject judge. The complainant alleges that the judge must have engaged in *ex parte* communications with defendant’s counsel “[b]ased on the timeline of events.” The complainant further asserts that the judge’s order directing the parties to meet and confer came “out of the blue,” as the court had already provided a deadline by which motions for summary judgment were to be filed. According to the complainant, “there was no way for the Court to have known that Defendant counsel reached out to Plaintiff to request an extension of time prior to issuing the Minute order.” The complainant claims that the judge’s granting of the defendant’s motion for

extension of time before ruling on her earlier-filed motion for reconsideration “indicates bias against the Plaintiff.”

As to the allegation of improper *ex parte* contacts, the complainant has failed to provide any evidence other than her belief that the timing of the ruling indicates such contacts. But the mere fact that the judge issued an order directing the parties to meet and confer after he had issued an order directing the filing of motions for summary judgment does not in and of itself indicate that there were *ex parte* contacts. Moreover, the order setting a date for filing summary judgment motions was not stayed by the subsequent meet and confer order, and thus, contrary to the complainant’s assertion, the defendant did not necessarily benefit from the meet and confer order. The claim of *ex parte* contacts therefore “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.” JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii).

As to the allegation that the timing of the judge’s orders disposing of the parties’ motions demonstrates bias or an improper motive for delaying consideration of the complainant’s motion, those claims are also without merit. The fact that the subject judge resolved the defendant’s motion before resolving the complainant’s, even though the complainant’s motion was filed first, does not itself demonstrate bias. A court might take into account a variety of considerations in determining the timing of ruling on pending motions, and here, the defendant’s motion sought an extension of time to file a summary judgment motion that would have been due within days. Thus, this allegation also “lack[s] sufficient evidence to

raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

With respect to the complainant’s allegation that the judge improperly delayed ruling on her motion for reconsideration, “[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(2). Here, the motion was resolved within six weeks of its filing. Insofar as the complainant alleges that such a period amounted to an unwarranted delay and that it resulted from an improper motive, the complainant provides no evidence of an improper motive apart from the time period itself. Her generalized allegation that the timing of the subject judge’s decision itself indicates bias “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” *See* JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, because the complaint is “based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” the complaint will 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).