

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-20-90013

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: 6/5/20

**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 involving a defendant charged with robbery of mail, money, or other property of the United States. The defendant was initially placed on supervised release and pled guilty. After being re-arrested on a charge of unlawful possession of a firearm by a convicted felon, the defendant agreed to detention pending sentencing in the mail robbery case. In March 2020, before the subject judge held a sentencing hearing, the defendant filed an emergency motion for release, asserting that his constitutional rights, health and safety, and potential mortality were threatened by his incarceration in light of the COVID-19 public health emergency. The subject judge denied the motion without prejudice, noting that the judge was unable to find by clear and convincing evidence that the defendant was unlikely to pose a danger to the safety of others. The judge also determined that the defendant had failed to demonstrate "exceptional circumstances" warranting his release because he asserted neither that he had an underlying health condition nor that he was in an advanced age group so as to put him at greater risk if he were to be exposed to COVID-19. As a result, the judge found no constitutional or statutory grounds supporting release. The judge further noted that his ruling was based on current conditions in the Department of Corrections facility in which the defendant was incarcerated and that a renewed motion would be considered "[s]hould circumstances change and the threat of the virus increase

dramatically.” In April 2020, the defendant filed an emergency motion for reconsideration of the denial of his request for release, and that motion remains pending.

The complainant, who has a close relationship with the defendant, has now filed a judicial misconduct complaint against the subject judge. The complainant asserts that the judge’s decision to deny release due to the pandemic is “unfair” and that the defendant is being “treated like some kind of animal.” The complainant’s assertion that the judge improperly denied the emergency motion for release “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). Moreover, to the extent the complainant is claiming that the judge is mistreating the defendant, that unsupported allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D). 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).<sup>1</sup>

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<sup>1</sup> 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).