

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90022

No. DC-13-90023

No. DC-13-90024

A Charge of Judicial
Misconduct or Disability

Before: GARLAND, Chief Judge of the Circuit

ORDER

Upon consideration of the complaint herein, filed against three Judges of the United States District Court for the District of Columbia pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 and the Judicial Conference of the United States Rules for Judicial-Conduct and Judicial-Disability Proceedings, it is

ORDERED, for the reasons stated in the attached Memorandum, that the complaint be dismissed. *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 Clerk is directed to send copies of this Order and accompanying Memorandum to the complainant, the subject judges, 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).



Merrick B. Garland, Chief Judge
District of Columbia Circuit

Date: _____

7-17-13

MEMORANDUM

The complainant alleges that three Judges of the United States District Court for the District of Columbia engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, the complainant alleges that the subject judges ignored his complaint, lacked the authority to return pleadings unfiled, and issued an erroneous order. For the following reasons, these allegations do not warrant action against the subject judges.

The complainant filed a complaint against 25 defendants alleging that he had suffered from multiple injuries and chronic illnesses. The subject judge (DC-13-90022) dismissed the complaint without prejudice for lack of subject matter jurisdiction. The complainant then attempted to file a second complaint, but the second subject judge (DC-13-90023) issued an order returning the complaint and in forma pauperis application to the complainant because the application was not complete. The complainant then filed a thirty page complaint, with 300 pages of exhibits, against approximately 100 defendants. The third subject judge (DC-13-90024) determined that, pursuant to Fed. R. Civ. P. 8(a), the complaint failed to contain a clear jurisdictional statement or a clear statement of the claim. The judge dismissed the complaint pursuant to Fed. R. Civ. P. 8(a) and for lack of subject matter jurisdiction. The complainant then filed the instant judicial misconduct complaint against the three subject judges.

The complainant generally argues that the subject judges ignored his complaints, lacked the authority to act, and issued erroneous decisions. But the complainant has not

provided any specific evidence of wrongdoing on the part of the subject judges. The allegations against the subject judges therefore lack sufficient evidence to raise an inference that judicial misconduct has occurred. *See* U.S.C. 352(b)(1)(A)(iii) and Jud. Conf. U.S., Rules for Judicial-Conduct and Judicial-Disability Proceedings 11(c)(1)(D).

Moreover, the allegations are more appropriately characterized as direct challenges to the merits of the subject judges' orders dismissing the complaints and returning the complainant's pleadings. A judicial misconduct proceeding is not the appropriate avenue to obtain relief from allegedly erroneous rulings. *See* 28 U.S.C. § 352(b)(1)(A)(ii) (providing for dismissal of a complaint that is "directly related to the merits of a decision or procedural ruling"); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B) ("A complaint must be dismissed in whole or in part to the extent that the chief judge concludes that the complaint . . . is directly related to the merits of a decision or procedural ruling."). Challenges to the merits of judges' orders must be raised by timely appeals or petitions for writs of mandamus.

Accordingly, because the complainant's allegations lack sufficient evidence to raise an inference that misconduct has occurred and are directly related to the merits of the subject judges' decisions, the complaint must be dismissed.¹

¹ Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL -DISABILITY PROCEEDINGS 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 Clerk of the Court of Appeals within 35 days of the date of the Clerk's letter transmitting the dismissal Order and this Memorandum. *Id.* R. 18(b).