

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90038

**A Charge of Judicial
Misconduct or Disability**

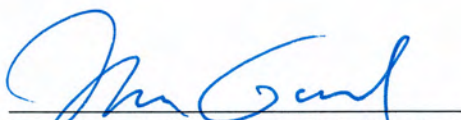
Before: GARLAND, Chief Judge of the Circuit

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)(ii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B).

The Clerk 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).


Merrick B. Garland, Chief Judge
District of Columbia Circuit

Date: _____

1-15-14

MEMORANDUM

The complainant alleges that a judge 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. The complainant's allegation arises out of a petition for a writ of mandamus, filed by the complainant in the district court, that was assigned to the subject judge. For the following reasons, this allegation does not warrant action against the subject judge.

The complainant's petition for a writ of mandamus alleged that the writ's respondents had, inter alia, defied orders issued by the United States District Court for the Eastern District of Virginia. The subject judge issued an order transferring the mandamus action to that court. The complainant alleges that said transfer was "erroneous[]" and made "over Petitioner's objections."

The complainant's allegation that the transfer was erroneous and made over his objections is puzzling because he and his co-petitioner expressly moved the subject judge to transfer jurisdiction of the mandamus action to the United States District Court for the Eastern District of Virginia. *See* Mot. to Expedite Transfer of Jurisdiction, No. 13-CV-0500 (D.D.C. Apr. 17, 2013). In any event, it is plain that the allegation constitutes a challenge to the merits of the judge's transfer order, and a judicial misconduct proceeding is not the appropriate avenue to obtain relief from an allegedly erroneous ruling. *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.”). Because the complainant’s allegation is directly related to the merits of the subject judge’s order, 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).