

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90010

A Charge of Judicial
Misconduct or Disability

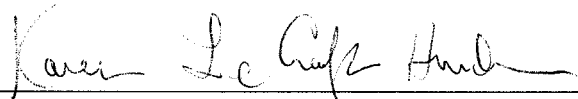
Before: HENDERSON, Acting Chief Judge of the Circuit

ORDER

Upon consideration of the complaint herein, filed against a judge of the United States Court of Appeals for the District of Columbia Circuit, 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 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).



Karen LeCraft Henderson, Acting Chief Judge
District of Columbia Circuit

Date: _____

03/24/14

MEMORANDUM

The complainant alleges that a judge of the United States Court of Appeals for the District Columbia Circuit has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The complainant's allegation arises out of a suit the complainant filed seeking a whistleblower award, which was assigned to the subject judge, *inter alios*. For the following reasons, the allegation does not warrant action against the subject judge.

The complainant alleges that the judge took into account "external considerations" in resolving the complainant's underlying case. Among the two external considerations were: "1. Having a pro se party successfully challenge the Tax Court. 2. Having a pro se party win being politically incorrect and thus jeopardize the chances of becoming a Supreme Court judge when the hearings are held." These assertions, however, are purely speculative and do not remotely constitute evidence of misconduct. The court notified the complainant that an initial decision to dispose of a case pursuant to D.C. Cir. Rule 34(j) did "not preclude the court, after examining the briefs, from setting this case for oral argument." While the court subsequently decided to resolve the case under Rule 34(j) after setting the case for argument, a change in procedure is not evidence of wrongdoing. Because the allegations "lack[] sufficient evidence to raise an inference that misconduct has occurred," the complaint against the subject judge will 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 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).