

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-23-90033

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: December 28, 2023

**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 has filed numerous unsuccessful lawsuits against Florida-based individuals and entities alleging that they “operate a criminal racketeering enterprise that steals conservation funds (\$100 million)” from Florida. The complainant then filed a complaint in the district court against the same Florida defendants he had previously sued and several federal defendants. The complainant alleged that the federal defendants violated a litany of statutes, including RICO, by failing to investigate the purported criminal enterprise of the Florida defendants, and he sought compensatory and punitive damages. After the complainant voluntarily dismissed the Florida defendants from the action, the federal defendants moved to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

The subject judge granted the government’s motion to dismiss for two independent reasons. First, the subject judge concluded that all of the complainant’s claims, which sought to hold the government liable based on its failure to criminally investigate and prosecute allegations of purported malfeasance, had to be dismissed for lack of jurisdiction because “[a] civil plaintiff . . . may not ask a court to compel the Government to prosecute a criminal case.” Second, the judge concluded that the complainant had also failed to plead a valid statutory basis for relief. Specifically, the judge reasoned that many of the statutes referenced in the complaint do not provide for private rights of action against the government. The judge

further determined that the government had not waived sovereign immunity under various other statutes referenced in the complaint. Finally, the judge noted that, to the extent that the complainant asserted a claim under the Freedom of Information Act (FOIA), he had failed to state a claim because it did not appear he had “submitted an appropriately exhausted request under FOIA” and because the only relief he demanded was monetary compensation, which FOIA does not authorize.

The complainant appealed the district court’s dismissal order. The court of appeals granted the defendants’ motion for summary affirmance and denied the complainant’s motion for summary reversal. The court noted that “[b]ecause he lacks standing to compel the government to prosecute . . . and appellees’ underlying enforcement decisions are not subject to judicial review, the district court did not err in dismissing [the] complaint for lack of jurisdiction.” The court also denied various other motions and petitions filed by the complainant, including a petition seeking an order disqualifying the subject judge based on his alleged prejudice towards the complainant.

The complainant has now filed a judicial misconduct complaint against the subject judge. The complainant asserts that the judge made “false statements” in his rulings, including improperly describing the complainant as “pro se,” referring to the complainant’s “litigation campaign against myriad entities,” and noting that “all four cases have been dismissed” (internal quotations omitted). The complainant further contends that the subject judge incorrectly stated the law and cited cases that were “immaterial and misstated.” The complainant additionally alleges that the subject judge improperly denied his motions without

argument and should have recused himself because he is a judge on the Foreign Intelligence Surveillance Act (FISA) court.

In challenging the language the subject judge used in his decisions, the case law he relied on, and the decision to grant the motion to dismiss without argument, the complainant is directly challenging the merits of the subject judge's decisions. "Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge – without more – is merits-related." JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 4(b)(1) Commentary ¶ 12. Such an allegation does not constitute "[c]ognizable misconduct" under the Judicial-Conduct Proceedings Rules or the applicable statute. *Id.* Rule 11(c)(1)(B); see 28 U.S.C. § 352(b)(1)(A)(ii).

To the extent the complainant asserts that the subject judge improperly failed to recuse, that allegation is also without merit. Allegations that a judge committed misconduct by failing to recuse are generally dismissed as merits related. See JUDICIAL-CONDUCT PROCEEDINGS RULE 4(b)(1) ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse"). "A failure to recuse may constitute misconduct only if the judge failed to recuse for an improper purpose." *In re Judicial Misconduct*, 605 F.3d 1060, 1062 (9th Cir. 2010). Here, however, the complainant did not seek the subject judge's recusal while the case was proceeding in the district court. Moreover, the complainant has provided no evidence of a failure to recuse for an improper purpose other than his own belief that FISA court rulings necessarily demonstrate "extreme prejudice." Consequently, this allegation "lack[s] sufficient evidence to raise an inference that misconduct

has occurred.” See JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, because the complaint “is directly related to the merits of [the judges’] decision,” and 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).<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).