

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90046

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY

Before: HENDERSON, *Circuit 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. 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 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 11(g)(2).



Karen LeCraft Henderson, Circuit Judge
District of Columbia Circuit

Date: 12/19/16

* Acting pursuant to Rule 25(f) of the RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS.

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 represented a litigant in a civil lawsuit in the United States District Court for the District of Columbia. The case was assigned to the subject judge, who had dismissed the case for lack of subject matter jurisdiction before the complainant entered an appearance. The subject judge then denied various motions that complainant filed on behalf of his client. The subject judge also granted a motion for sanctions against complainant because he had submitted frivolous pleadings and used the lawsuit to pursue a personal vendetta against a defendant.

Shortly before the sanctions order issued, complainant filed a judicial misconduct complaint alleging the subject judge abused his power by issuing orders that do not cite any legal authority. Complainant cites *In re Complaint of Judicial Misconduct*, 425 F.3d 1179 (9th Cir. 2005), for the proposition that “[j]udicial action taken without any arguable legal basis ... [can be] an abuse of judicial power.” The record, however, does not support such a finding here.

Complainant also alleges the subject judge engaged in misconduct by dismissing the case without prejudice for lack of subject matter jurisdiction and by not liberally construing certain pro se filings. These allegations of misconduct must be dismissed because they are “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); see 28 U.S.C. § 352(b)(1)(A)(ii).

Finally, complainant raises a claim that the subject judge is biased in favor of the federal defendants, as demonstrated by the fact that the judge dismissed the claims against those defendants. This allegation, however, is “directly related to the merits of a decision or procedural ruling” or otherwise “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D); see 28 U.S.C. § 352(b)(1)(A)(ii), (iii). Therefore, the remainder of the complaint must be dismissed as well.¹

¹ Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY 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 of the date of the dismissal order. *Id.* Rule 18(b).