

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90027

**A Charge of Judicial
Misconduct or Disability**

Before: GARLAND, *Chief Judge*.

ORDER

Upon consideration of the complaint herein, and the supplement thereto, 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).


Merrick B. Garland, Chief Judge

Date: 2/5/20

MEMORANDUM

The complainant has filed a complaint of judicial misconduct against a judge of the United States District Court for the District of Columbia. He has previously filed two complaints against the subject judge, both of which were dismissed by the then-Acting Chief Judge because they lacked “sufficient evidence to raise an inference that misconduct ha[d] occurred.” Judicial Misconduct Complaint Nos. DC-16-90054; DC-17-90005. For the following reasons, this misconduct complaint will be dismissed as well.

The misconduct complaint arises out of a Freedom of Information Act (FOIA) suit that the complainant filed against the Federal Bureau of Investigation (FBI). The subject judge granted the government’s motion for summary judgment, determining that the government agency had established that its search for records was reasonable, that it properly withheld information under FOIA exemptions, and that it released all reasonably segregable information. The complainant then filed a motion for reconsideration and a motion to strike the government’s motion for an extension of time to respond to the motion for reconsideration. The subject judge denied the motion to strike and granted the motion for an extension of time. The complainant then filed an amended motion to strike regarding the motion for extension of time, which was denied. The complainant then filed a motion for clarification of the order denying the amended motion to strike and a motion for default judgment, both of which were denied. The complainant then filed yet another motion to clarify; that motion was also denied. The subject judge noted that the

defendants had complied with FOIA, that the merits of the case had been resolved, and that the case was closed.

The complainant states that he “would like to use . . . my Motion for Clarification in [his FOIA] case . . . as the basis for [this] complaint.” He charges, inter alia, that “should my Motion for Reconsideration [in that case] not be granted, [it] is giving the FBI a ‘blank check’ to avoid [] FOIA requests.” He also charges that, in another FOIA case he filed, the subject judge treated him in a manner “different from that of the Defendant to such an[] extent that he can’t even sign an Order [that the government attorney] . . . is explicitly not opposing,” yet “will grant a Motion for an[] extension on time for that Attorney no matter how ludicrous the reason.” “[I]f the Judge can not sign [an] Order which the Defendant specifically states in their reply that they will not contest,” the complainant avers, “then this judge is either disabled or guilty of misconduct due to prejudice.” Finally, in a supplement to the complaint, the complainant states that he did not receive an order terminating one of his FOIA cases until six months after the order issued, and thus he “ha[s] grounds to have this Judge removed.”

Most of the complainant’s allegations seek to “call[] into question the correctness of [the] judge’s ruling[s].” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), RULE 4(b)(1). Such allegations do not constitute “[c]ognizable misconduct” under the Judicial-Conduct Proceedings Rules or the applicable statute, *id.*; *see* 28 U.S.C. § 352(b)(1)(A)(ii). Nor do the complainant’s

allegations that the judge has granted motions filed by opposing counsel and not by him, or that the judge will not sign a requested order uncontested by opposing counsel, constitute “sufficient evidence to raise an inference that misconduct has occurred or that a disability exists.” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii). Accordingly, the complaint must be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).¹

¹ 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).