

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90010

**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).

KLH

Karen LeCraft Henderson, Circuit Judge
District of Columbia Circuit

Date: 4/22/2016

* 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 filed a civil action in the district court that was assigned to the subject judge. The judge initially granted complainant's motion to proceed in forma pauperis. The government filed a motion for reconsideration, which the judge granted, concluding that complainant has three strikes under the Prison Litigation Reform Act ("PLRA"). Therefore, complainant's in forma pauperis status was revoked.

The complainant has now filed a judicial misconduct complaint against the subject judge, alleging the judge treated him in a hostile manner and gave special treatment to the defendants by erroneously concluding he had three strikes and by not allowing complainant to object to the defendants' motion for extension of time. These allegations, however, are "directly related to the merits" of the judge's rulings, and therefore do not constitute "cognizable misconduct." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 3(h)(3)(A). Accordingly, this part of the judicial misconduct complaint must be dismissed. 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).

Complainant also claims the subject judge had ex parte communications with opposing counsel and is assisting the defendants and others abuse him and hold him incommunicado, but the complaint provides no evidence of this alleged misconduct.

Because the complaint is therefore “based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” the Judicial-Conduct Rules require that it “be dismissed.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULE 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 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).