

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-23-90015

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, a pro se litigant, sued a government agency and other federal government officials, alleging a conspiracy to sabotage his employment prospects. The complainant moved for default judgment, but the subject judge denied the motion, finding that service on the United States had not been effected. The judge then granted the government's motion for an extension of time to file its motion to dismiss, and issued an order pursuant to *Fox v. Strickland* and *Neal v. Kelly (Fox/Neal)* informing the complainant of the consequences if he failed to respond. The complainant appealed both orders.

The court of appeals dismissed the appeal for lack of jurisdiction. The court determined that the subject judge's *Fox/Neal* order and the order granting an extension of time were not final orders that disposed of all claims as to all parties and that the judge had not yet ruled on the motion to dismiss, so there was no final, appealable order in the case. The court additionally concluded that the complainant had not shown that the orders were otherwise immediately appealable.

Meanwhile, the complainant filed a judicial misconduct complaint against the subject judge. The complainant asserts that the judge is biased against him, as evidenced by the fact that the subject judge "dismiss[ed] the case before the 14 days required for the plaintiff to respond to defendant's motion." Furthermore, the complainant alleges that the date that the subject judge set for him to respond to the motion to dismiss "would be in the defendant's favor if the plaintiff followed the direction." Finally, the complainant contends that the subject

judge's handling of his case "illustrates a track record to be more bias or prejudice against" him in a second case he filed which was also assigned to the subject judge.

It appears that the complainant may be confused about the status of the underlying case at the time he filed the misconduct complaint, as at that time the subject judge had not yet dismissed the complaint. Instead, at that point the judge had merely informed the complainant that the case could be dismissed if he failed to submit a timely response to the motion to dismiss. The complainant has since filed a response to the motion to dismiss and the judge later dismissed the complaint.

To the extent the complainant is challenging the subject judge's *Fox/Neal* order, that allegation is "directly related to the merits of a decision or procedural ruling," and cannot constitute "[c]ognizable misconduct" under the Judicial-Conduct Rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 4(b)(1); see *id.* 11(c)(1)(B); 28 U.S.C. § 352(b)(1)(A)(ii). Moreover, because nothing on the face of the subject judge's orders indicates bias, and because the complainant has failed to offer any evidence to demonstrate that the judge's handling of one case will impact his handling of the complainant's second case, the complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred." JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D). Accordingly, the

complaint should 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).