

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-20-90031

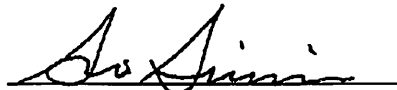
Before: Srinivasan, Chief Judge

**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: 12/28/20

No. DC-20-90031

**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 Freedom of Information Act (“FOIA”) action seeking records from the Department of Justice about a narcotics enforcement team. The complainant subsequently submitted a notice of related case, stating that the FOIA action was related to another one of his cases. The judge who handled the complainant’s prior case determined that, because that case had been dismissed and the parties and subject matter differed in the two cases, the instant case was not related and should be forwarded to the Calendar Committee for random assignment. The case was then assigned to the subject judge.

The Department of Justice responded to the complaint by producing redacted documents, invoking FOIA exemption 7(F) to justify the redactions. The complainant challenged the redactions and sought a “preliminary injunction requiring the government to promptly process his FOIA request in the way *he* thinks appropriate, presumably by producing additional, or unredacted, responsive, records.” Order Denying Mtn for Preliminary Injunction at 1-2. The subject judge denied the motion, finding that the complainant had not shown that he would be irreparably harmed

without the preliminary relief he sought. *Id.* at 2. The complainant then sought to recuse the subject judge, asserting that the judge “is clearly a narcotics task force misconduct enabler and cannot render a fair judgement and must recuse.” Motion to Recuse at 3. The subject judge determined that neither his denial of the motion for a preliminary injunction without briefing from the government (which had not yet appeared), nor his prior work at the Department of Justice, warranted his recusal.

The complainant then filed this judicial misconduct complaint, asserting that the subject judge “dismissed a preliminary injunction without the adversary (U.S. Government) filing an opposition brief.” He further alleges that “[t]he court picked a former government narcotics attorney to hear a FOIA case about a drug task force which was not responded to for over four years.”

As to the claim that the subject judge acted improperly by denying the motion for a preliminary injunction without first waiting for a response from the government, that claim is without merit. First, the complainant does not (and could not) allege that he was prejudiced by the judge’s consideration of his motion without a response from the government. Moreover, the complainant’s challenge to the order denying the preliminary injunction simply “calls into question the correctness of [the] judge’s ruling.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS (2019), Rule 4(b)(1). Such an allegation does 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).

As to the complainant's allegation that the subject judge was improperly assigned to the complainant's case, that allegation does not assert that the assignment of the case was a result of the subject judge's misconduct. A different judge determined that the complainant's second case was unrelated to the first and thus should be randomly assigned. Additionally, the Calendar Committee, not the subject judge, assigned the case to the subject judge. Thus, the complainant has failed to provide any evidence that the subject judge committed misconduct, or even had any role, in connection with the assignment of the case. In addition, to the extent that the complainant is alleging that the subject judge's previous employment with the Department of Justice biased his consideration of the complainant's case, the complainant has failed to provide any evidence of bias other than his own unsupported assertions. The allegation therefore "lack[s] sufficient evidence to raise an inference that misconduct has occurred."

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

Accordingly, because the complainant's allegations are "directly related to the merits of a decision or procedural ruling," and are "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).