

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-17-90001

A Charge of Judicial
Misconduct or Disability

Before: GARLAND, *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 11(g)(2).



Merrick B. Garland, Chief Judge

Date: 7/28/17

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 complaint will be dismissed.

The complainant filed an employment discrimination complaint in the district court alleging that his employer, U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security, reprimanded him because of his race and in retaliation for his participation in a co-worker's discrimination suit. He also alleged that he was subjected to a hostile work environment. The case was assigned to the subject judge, who granted the Department's motion for summary judgment. The judge found that: "the reprimand itself [was] not an actionable adverse employment action"; there was no evidence that "ICE's decision to reprimand him was tainted by discrimination"; and there was no evidence that the reprimand was retaliatory. The judge rejected the complainant's hostile work environment claim as unsubstantiated.

The complainant has now filed a judicial misconduct complaint contending that the subject judge "grossly overlooked and did not consider a variety of discriminatory actions that were committed by the Department of Homeland Security" and "did not fully consider that [ICE] officials retaliated against" him. The complainant also alleges that the judge "did not mandate that [the] agency official . . . follow the scheduling order to timely provide discovery," "move[d] the case forward without allowing [his] attorney to obtain the discovery that was requested," and improperly denied his motion to amend.

Regardless of whether these allegations are factually correct, they are “directly related to the merits” of the subject judge’s decisions and procedural rulings.

Accordingly, they do not constitute “cognizable misconduct” under the Judicial-Conduct Rules and must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, RULES 3(h)(3)(A), 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii).

The complainant further alleges that the subject judge “appears to be very prejudicial by not considering all of the facts and by citing that the civil case is about a bag of peanuts.” The first allegation goes to the merits of the judge’s decisions and rulings. The second refers to the first two lines of the judge’s memorandum opinion, which notes that ICE’s reprimand of the complainant arose out of his alleged conduct while attempting to purchase a bag of peanuts at a liquor store. These allegations “lack[] sufficient evidence to raise an inference that misconduct has occurred” and must also be dismissed. JUDICIAL-CONDUCT 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 Judicial-Conduct 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 Circuit Executive’s letter transmitting the dismissal Order and this Memorandum. JUDICIAL-CONDUCT RULE 18(b).