

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-20-90017


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: 9/22/20

No. DC-20-90017

## 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 subject judge was assigned a criminal case. The complainant, who is not a party to the criminal case, filed a misconduct complaint against the subject judge challenging the judge's handling of the case. The complaint asserts in its entirety:

[The subject judge] is no longer competent on the . . . case. Judges are suppose to run the court room and their cases. By inviting a retired judge to come back into the court to make recommendations on the [case's] resolution, he has made the case resolution political. Since the prosecution case has been withdrawn, this should be a simple decision to drop the charges. In addition, the Judge is in any case there to make the courtroom work and guide the case to completion. [The subject judge] is now acting as wanting to steer the case and make arguments about [the defendant]. Instead of being the judge, he is acting as a prosecuting attorney. This is not only wrong, it is a terrible precedent. This behavior by [the subject judge] needs to be stopped.

The complainant is primarily challenging the subject judge's appointment of amicus curiae. This allegation is a direct challenge to the subject judge's order appointing amicus and "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). Moreover, to the extent the complainant is alleging that the subject judge acted in a partisan manner, this allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS Rule 11(c)(1)(D). The appointment of amicus, in and of itself, does not demonstrate improper partisan conduct. Moreover, the en banc Court of Appeals has determined that the subject judge’s conduct in the matter in question, including with regard to the appointment of amicus, has not “come[] close to meeting the ‘very high standard’ of ‘conduct so extreme as to display clear inability to render fair judgment,’” and thus reassignment to another judge was unwarranted. Accordingly, because the misconduct complaint “is directly related to the merits of a decision or procedural ruling,” and “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” it must 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).