

Supreme Court of the United States
Washington, D. C. 20543

COUNSELOR TO
THE CHIEF JUSTICE

May 8, 2020

Elizabeth H. Paret
Circuit Executive
Judicial Council of the District of Columbia Circuit
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001

Dear Ms. Paret:

I am writing in response to your letter of May 1, 2020, transmitting a request from the Chief Judge of your Circuit to transfer a judicial conduct matter, Judicial Misconduct Complaint No. DC-20-90011, to another Circuit's Judicial Council as provided in Rule 26 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Rule 26 allows such transfers in "exceptional circumstances" if the transferring court has received a verified complaint of judicial misconduct or if the chief judge of that court has identified a complaint.

The Order that you transmitted in Judicial Misconduct Complaint No. DC-20-90011 notes that the court received unverified correspondence from an organization requesting an inquiry into whether a judge of that court may have engaged in judicial misconduct, but the court has not received a verified complaint. In the absence of a verified complaint, the Order requests transfer based on the chief judge's identification of a complaint under Rule 5 of the Rules for Judicial-Conduct and Judicial Disability Proceedings.

Rule 5 provides in relevant part:

When a chief judge has information constituting reasonable grounds for inquiry into whether a covered judge has engaged in misconduct or has a disability, the chief judge may conduct an inquiry, as he or she deems appropriate, into the accuracy of the information even if no complaint has been filed. A chief judge who finds probable cause to believe that misconduct has occurred or that a disability exists may seek an

informal resolution that he or she finds satisfactory. If no informal resolution is achieved or is feasible, the chief judge may identify a complaint and, by written order stating the reasons, begin the review provided in Rule 11.

The commentary accompanying Rule 5 explains:

Under Rule 5, when a chief judge becomes aware of information constituting reasonable grounds to inquire into possible misconduct or disability on the part of a covered judge, and no formal complaint has been filed, the chief judge has the power in his or her discretion to begin an appropriate inquiry. A chief judge's decision whether to informally seek a resolution and/or to identify a complaint is guided by the results of that inquiry. If the chief judge concludes that there is probable cause to believe that misconduct has occurred or disability exists, the chief judge may seek an informal resolution, if feasible, and if failing in that, may identify a complaint.

The commentary to Rule 5 additionally states:

When a chief judge identifies a complaint, a written order stating the reasons for the identification must be provided; this begins the process articulated in Rule 11.

The Order transmitted in Judicial Misconduct Complaint No. DC-20-90011 purports to identify a complaint under Rule 5 "without any inquiry by this court into the statements contained in the unverified correspondence or the questions posited by the organization in the correspondence about the possibility of judicial misconduct." Order at 2. Nor does the Order reflect a determination of probable cause, or provide sufficient indicia to infer such a finding. Because the Order does not meet the prerequisites for identification of a complaint under Rule 5, the Chief Justice has determined that a transfer of the matter is not appropriate at this juncture of the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey P. Minear", written in a cursive style.

Jeffrey P. Minear