

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90056

**A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY**

Before: HENDERSON, *Circuit 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. See 28 U.S.C. § 352(b)(1)(A)(ii), (iii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D).

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).



Karen LeCraft Henderson, Circuit Judge
District of Columbia Circuit

Date: 1/17/17

* Acting pursuant to Rule 25(f) of the RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS.

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 represented a litigant in a civil lawsuit in the United States District Court for the District of Columbia. The case was assigned to the subject judge, who had dismissed the case for lack of subject matter jurisdiction before the complainant entered an appearance. The subject judge then denied various motions that complainant filed on behalf of his client. The subject judge also granted a motion for sanctions against complainant because he had submitted frivolous pleadings and used the lawsuit to pursue a personal vendetta against a defendant.

Shortly before the sanctions order issued, complainant filed a judicial misconduct complaint against the subject judge. That Judicial Complaint was dismissed on the ground that complainant's allegations were "directly related to the merits of a decision or procedural ruling" or "lack[ed] sufficient evidence to raise an inference that misconduct has occurred." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).

Complainant now alleges the subject judge imposed the sanctions to retaliate against him for filing the first judicial misconduct complaint. The sanctions order issued on December 1, 2016, but the previous complaint was not filed until December 5, 2016. Because the subject judge was not provided a copy of the first misconduct complaint until it was filed on December 5, he would not have known about the prior judicial

misconduct complaint when he issued the sanctions order several days earlier.

Therefore, this allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(D); see 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent the complainant alleges that the subject judge is biased against him and wrongly dismissed the underlying case. These allegations – which are similar, if not identical to, the allegations made in the first judicial misconduct complaint – are “directly related to the merits of a decision or procedural ruling” or otherwise “lack[] sufficient evidence to raise an inference that misconduct has occurred.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B), (D); see 28 U.S.C. § 352(b)(1)(A)(ii), (iii). Accordingly, the remainder of the complaint must be dismissed.¹

¹ Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY 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 of the date of the dismissal order. *Id.* Rule 18(b).