

JUDICIAL COUNCIL
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of
A Complaint of Judicial
Misconduct or Disability

Complaint No. DC-20-90014

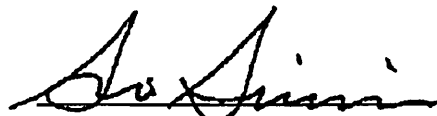
Before: Srinivasan, Chief Judge.

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: 6/5/20

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 two actions related to her employment at a federal agency. The first action was brought against the complainant's employer, and alleged violations of Title VII of the Civil Rights Act and was construed to allege claims under the Age Discrimination in Employment Act. The agency moved to dismiss or, in the alternative, to transfer the case on the ground that venue was improper in the District of Columbia. The agency asserted that: the complainant's home address was in Maryland; she worked in Maryland; her employment records were maintained in Maryland; and the supervisors named in the complaint also worked in the Maryland office during the time they supervised the complainant. The complainant responded to the motion by asserting that, while she is "based" in Maryland, she is an employee of an agency headquartered in the District of Columbia, the agency does business and maintains its business records in the District of Columbia, and "many of the unlawful practices and the decision makers are based in the District of Columbia." Viewing the allegations in the light most favorable to the complainant, the subject judge denied motion to dismiss.

After the complainant filed an Amended Complaint, the agency filed a second motion to dismiss. The complainant filed an amended response to the motion to dismiss where she noted that the "who" she was complaining about were the previously listed supervisors in Maryland

and the “where” was the “Maryland Campus.” Based on these admissions, the subject judge determined that venue was improper in the District of Columbia and thus transferred the action to the Southern Division of the United States District Court for the District of Maryland. The complainant then filed a motion to transfer the case back to U.S. District Court for the District of Columbia. The subject judge construed the motion as one to reconsider the transfer order, which the judge denied, finding that the complainant had not raised any legal arguments justifying reversal of the transfer order. The complainant then filed a notice of appeal, which the Court of Appeals construed as a petition for writ of mandamus. The petition for writ of mandamus remains pending.

The complainant’s second case was brought against one of her supervisors, and alleged that he harassed and discriminated and retaliated against her because of her race. She alleged claims under Title VII and the Whistleblower Protection Act. The subject judge dismissed the Title VII claim on the basis that the complainant could not bring an action against her supervisor individually. The judge dismissed the Whistleblower Protection Act claim because the complainant had failed to allege any facts supporting the claim and failed to demonstrate that she had first exhausted her administrative remedies. The subject judge subsequently denied the complainant’s motion to reopen the case and denied her motion for leave to appeal in forma pauperis because an appeal would not be taken in good faith. The complainant then noted an appeal, which remains pending.

The complainant has now filed a judicial misconduct complaint against the subject judge with regard to the judge’s handling of both cases. The complainant asserts that, in the first

case, the subject judge improperly transferred the case “when neither party requested it nor did the Judge express having to clear her load of cases.” The complainant further alleges that “the case was transferred . . . in order for the Defendant’s [sic] to have some level of influence” and that the judge “is operating under somewhat of a bias state.”

The complainant’s assertion that the judge improperly transferred the case “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). The complainant is also mistaken in her assertion that no party requested transfer: the agency filed a motion to dismiss or in the alternative to transfer. Moreover, to the extent that the complainant is claiming that the judge was biased or had an improper motive for transferring the case, the complainant has provided no support for these claims. The allegations thus “lack sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D). Accordingly, because the allegations pertaining to the first case 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,” these allegations shall be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B), (D); see 28 U.S.C. § 352(b)(1)(A)(ii), (iii).

As to the complainant’s second case, the complainant alleges that the subject judge “denied the request of the fee waiver form as well as the appeal request” and that the “judge that offers the ruling should not be same judge that oversees the review and approval of the

fee waiver and appeal request.” It appears that the complainant misperceives the posture of the case. While the judge did deny the complainant’s motion to reopen the case and her motion to proceed in forma pauperis on appeal, the appeal itself remains pending. The allegations are dismissed because they are unsupported by any evidence suggesting that misconduct has occurred. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B), (D); see 28 U.S.C. § 352(b)(1)(A)(ii), (iii).¹

¹ 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).