

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90025

**A Charge of Judicial
Misconduct or Disability**

Before: GARLAND, Chief Judge

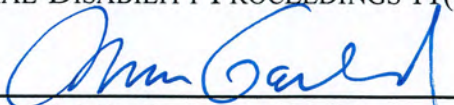
ORDER

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. It is

FURTHER ORDERED that the complainant show cause why he should not be enjoined from filing further complaints of judicial misconduct. *See* JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 10(a). The complainant has filed nine complaints within the last year, and all have been dismissed because the allegations were conclusory, repetitive, or related to the merits of an underlying decision. The complainant is directed to file an answer with the Circuit Executive by September 29, 2014, which answer will be transmitted to the Judicial Council for its consideration.

The Clerk 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: 9/8/14

MEMORANDUM

The complainant alleges that a judge of the United States District Court for the District of Columbia engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The allegations arise out of a Freedom of Information Act lawsuit complainant filed in the district court that was assigned to the subject judge. For the following reasons, the allegations do not warrant action against the subject judge.

The complainant's lawsuit sought records concerning an alleged confidential informant who provided information that the government relied upon in seeking a warrant to conduct a search of the complainant's residence. The judge granted the defendant's motion for summary judgment. The complainant asserts that, in so doing, the judge "willfully provided permission for Two Unlicensed Attorneys to file Declaration Documents willfully loaded with FRAUD in to the FOIA Summary Judgment Proceedings." As evidence of wrongdoing, the complainant attaches a letter from the District of Columbia Office of Bar Counsel that noted that the attorneys in question were not members of the District of Columbia Bar.

To the extent the complaint asserts that the judge erred in entering the declarations into evidence, that allegation is "directly related to the merits of a decision or procedural ruling" and cannot constitute "[c]ognizable misconduct" under the Judicial-Conduct Rules. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 3(h)(3)(A); *see* JUDICIAL-CONDUCT RULE 11(c)(1)(B) (requiring dismissal

of a complaint “directly related to the merits of a decision”); 28 U.S.C. § 352(b)(1)(A)(ii). To the extent the complaint charges that the judge acted “fraudulently” in entering the declarations into evidence, the complainant has failed to provide any evidence of fraud. Accordingly, the complaint is “based on [an] allegation[] lacking sufficient evidence to raise an inference that misconduct has occurred” and “must be dismissed.” JUDICIAL-CONDUCT RULE 11(c)(1)(D); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

The complainant also alleges that the subject judge erroneously “excused [the lawyers] . . . from filing required Vaughn Index Responsive Documents.” This allegation is a direct challenge to the merits of the judge’s decision and must also be dismissed. *See* JUDICIAL-CONDUCT RULE 11(c)(1)(B).¹

¹ Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 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 Clerk of the Court of Appeals within 35 days of the date of the Clerk's letter transmitting the dismissal Order and this Memorandum. *Id.* R. 18(b).