

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-16-90032

**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: 8/22/16

* 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 filed a civil lawsuit in the United States District Court for the District of Columbia. The case was assigned to the subject judge, who issued a memorandum opinion and order dismissing the case for lack of subject matter jurisdiction.

The complainant has now filed a judicial misconduct complaint against the subject judge, alleging the judge cited an incorrect statute and erroneously concluded that the defendants were entitled to sovereign immunity. As these allegations are “directly related to the merits of a decision or procedural ruling,” they do not constitute “cognizable misconduct.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 3(h)(3)(A). Accordingly, this part of the judicial misconduct complaint must be dismissed. JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B); see 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant also alleges the memorandum opinion is racially discriminatory and was prepared by another judge who forged the subject judge’s signature. These claims, however, “lack sufficient evidence to raise an inference that misconduct has occurred” and must be dismissed as well. 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).

In summary, complainant’s allegations 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). Accordingly, the complaint must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii), (iii).²

² 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).