

JUDICIAL COUNCIL  
OF THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of  
A Complaint of Judicial  
Misconduct or Disability

Complaint No. DC-20-90019

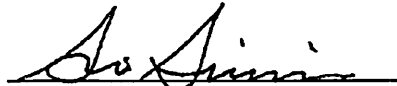
Before: Srinivasan, Chief Judge

**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: 9/22/20

**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 subject judge was assigned a criminal case. The complainant, who is not a party to the criminal case, filed a misconduct complaint against the subject judge challenging the judge's handling of the case. Specifically, the complainant alleges that, based on the subject judge's ruling in an unrelated case, "it appears the Judge now has a grudge against President Trump and his associates." The complainant further alleges that the "Judge's order [appointing amicus curiae] is unprecedented, unconstitutional, and improper. A judge may not openly politicize a case and shirk his adjudicatory duties by seeking input from political outsiders." The complainant also argues that "[i]t certainly appears [the subject judge] is biased, and is trying to protect himself and his Democrat cronies by casting aspersions on Patriots who might expose FBI, DOJ, and FISA Court abuses and Democratic Party criminality." In support of the claim of bias, the complainant states that the judge's "background" is evidence of bias along with the judge's comments that "You sold your Country out" and "I can't hide my disgust, my disdain."

To the extent the complainant is alleging that the subject judge improperly appointed amicus curiae, that allegation "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). The judge's determination that amicus was needed 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).

To the extent the complainant is asserting that the subject judge has a “grudge” against the defendant, acted in a partisan manner, or acted in his own self interest, the allegations “lack sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(D). The judge’s disposition of an unrelated case does not suggest improper conduct in this case, nor does the complainant provide any support for his allegation that the judge’s “background” resulted in misconduct in the instant case.

Moreover, the subject judge’s comments do not rise to the level of misconduct. “[A] judge’s public comments can themselves be misconduct if sufficiently rude, derogatory, or intemperate.” *In re Complaint of Judicial Misconduct*, 761 F.3d 1097, 1099 (9<sup>th</sup> Cir. 2014); see JUDICIAL-CONDUCT PROCEEDINGS RULE 4(a)(2)(B) (“Cognizable misconduct includes . . . treating litigants . . . in a demonstrably egregious and hostile manner.”). A review of the transcript reflects that the judge’s comments concerned the criminal offense at issue and conveyed the judge’s view of the serious nature of the crime, and is not the kind of “sufficiently rude, derogatory, or intemperate” comment that can itself constitute misconduct. *In re Complaint of Judicial Misconduct*, 761 F.3d at 1099. Thus, the allegation that the judge’s comments demonstrate bias “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” JUDICIAL-CONDUCT PROCEEDINGS Rule 11(c)(1)(D).

Furthermore, the en banc Court of Appeals has determined that the subject judge’s statements and conduct in the matter in question, including with regard to the appointment of

amicus, has not “come[] close to meeting the ‘very high standard’ of ‘conduct so extreme as to display clear inability to render fair judgment,’” and thus reassignment to another judge was unwarranted. Accordingly, because the misconduct complaint “is directly related to the merits of a decision or procedural ruling,” and “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,” it must be dismissed. JUDICIAL-CONDUCT PROCEEDINGS RULE 11(c)(1)(B), (D); *see* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).<sup>1</sup>

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<sup>1</sup> 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).