

The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-19-90005

No. DC-19-90006

No. DC-19-90007

No. DC-19-90008

No. DC-19-90009

No. DC-19-90010

No. DC-19-90011

No. DC-19-90012

No. DC-19-90013

No. DC-19-90014

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY

Before: TATEL, *Circuit Judge**

ORDER

Upon consideration of the complaint herein, filed against five judges of the United States Court of Appeals for the District of Columbia Circuit and five judges 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 judges, 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).



David S. Tatel, Circuit Judge
District of Columbia Circuit

Date: 6/17/19

* Pursuant to Rule 25(f) of the RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, the Judicial Council has voted to allow Judge Tatel to consider these complaints.

MEMORANDUM

Complainant has filed a complaint of judicial misconduct against five judges of the United States Court of Appeals for the District of Columbia Circuit and five judges of the United States District Court for the District of Columbia.¹ For the following reasons, this misconduct complaint will be dismissed.

In 2014, complainant was the respondent in an action in the United States District Court for the District of Columbia to confirm an arbitration award. Subject judge 05 issued a decision concluding that complainant failed to move to deny the award in the three months after the award was issued, as required by the Federal Arbitration Act, 9 U.S.C. § 12, and thus complainant's attempt to do so in response to the petition to confirm was time-barred. The complainant appealed that decision to the United States Court of Appeals for the District of Columbia Circuit, but subsequently voluntarily dismissed the appeal.

In October 2014, complainant filed a judicial misconduct complaint against subject judge 05, alleging that the judge had erred in the disposition of the petition to confirm the arbitration award, and calling into question the judge's physical fitness to discharge her judicial duties at the time of those proceedings. The misconduct complaint was presented to subject judge 06, who dismissed the complaint on the grounds that it was "directly related to the merits of a decision or procedural ruling," and that it "[did] not indicate a . . . physical disability resulting in the inability to discharge the

¹ In this memorandum, the subject judges will be identified by the last digits of the complaint number assigned to each.

duties of judicial office.” JUD. CONF. U.S., RULES FOR JUDICIAL CONDUCT AND JUDICIAL DISABILITY PROCEEDINGS, RULE 11(C)(1)(B), (A).

Complainant filed a second judicial misconduct complaint against subject judge 05, as well as a judicial misconduct complaint against subject judge 06. With respect to subject judge 05, the misconduct complaint largely repeated complainant’s previous allegations that the judge erred in the disposition of the petition to confirm the arbitration award, and that the judge was suffering from a physical condition at the time of those proceedings that raises a question about disability under Rule 4(c). With respect to subject judge 06, the judicial misconduct complaint alleged that the judge erred in the disposition of the previous misconduct complaint. These judicial misconduct complaints were presented to subject judge 13, who dismissed them on the grounds that allegations “directly related to the merits of a decision or procedural ruling” may not give rise to a finding of judicial misconduct, and the judicial misconduct complaint otherwise lacked sufficient evidence to raise an inference that misconduct had occurred. See JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(B), (D); 28 U.S.C. § 352(b)(1)(A)(ii), (iii).

Complainant next filed a judicial misconduct complaint against subject judges 05, 06, and 13, as well as a now-former judge of this circuit who had not previously been named in or involved with the disposition of any of complainant’s prior judicial misconduct complaints. Complainant largely repeated her previous arguments that subject judge 05 erred in the disposition of complainant’s district court case, and that subject judges 06 and 13 erred in the disposition of her prior judicial misconduct complaints. Complainant also alleged that the former judge had engaged in sexual

misconduct prior to taking the bench, and that subject judge 13 had participated in a coverup of that alleged misconduct. These judicial misconduct complaints were presented to a judge who is not named as a subject of the present misconduct complaints, who dismissed them on the grounds that they were “directly related to the merits of a decision or procedural ruling,” JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(B); 28 U.S.C. § 352(b)(1)(A)(ii), that the complaint lacked sufficient evidence to raise an inference that misconduct had occurred, JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(D); 28 U.S.C. § 352(b)(1)(A)(iii), and that behavior predating a judge’s judicial term generally may not serve as the basis for a finding of judicial misconduct.

Complainant has now filed another judicial misconduct complaint against subject judges 05, 06, and 13, as well as seven additional judges that have not been named in any of complainant’s previous misconduct complaints. The present complaint does not include any specific allegations of misconduct on the part of the seven newly-identified judges. With respect to subject judges 05, 06, and 13, complainant merely repeats her previous allegations: that subject judge 05’s disposition of complainant’s district court case was erroneous and that subject judge 05 allegedly suffered from a physical disability at the time of that case, subject judges 06 and 13 erroneously dismissed complainant’s prior judicial misconduct complaints, and subject judge 13 participated in an illicit coverup of sexual misconduct. Complainant also raises generalized allegations of corruption by the court but fails to identify specific instances of alleged corruption or misconduct.

Insofar as complainant's claims are "directly related to the merits of" her underlying district court proceeding or her previous judicial misconduct complaints, such claims are not proper grounds for a finding of judicial misconduct. JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(B); 28 U.S.C. § 352(b)(1)(A)(ii). Insofar as complainant continues to claim that subject judge 13 participated in an illicit coverup, the complaint "lack[s] sufficient evidence to raise an inference that misconduct has occurred." JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 11(c)(1)(D); 28 U.S.C. § 352(b)(1)(A)(iii). And insofar as complainant raises generalized accusations of corruption, she has failed to identify any particular conduct that might give rise to a claim of judicial misconduct.

The present misconduct complaint also identified as a subject a former judge of this circuit. But pursuant to JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 1(a), individuals who are not judges of this circuit are not subject to misconduct complaints filed herein. Complainant has also contacted the court expressing that a misconduct complaint should have been opened against a second former judge of this circuit; that judge was not named as a subject in the present misconduct complaint, but even if he had been named, this court lacks authority to open such a complaint. JUD. CONF. RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, Rule 1(a).

For the foregoing reasons, the complaint must be dismissed.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).