JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re: Complaint of Judicial Misconduct	* * * * * * *	Complaint Number 06-25-90174

MEMORANDUM AND ORDER

James Fitzpatrick filed this complaint of judicial misconduct against the Honorable James E. Boasberg, Chief United States District Court Judge for the District of Columbia, under 28 U.S.C. § 351.

I.

The gist of the complaint is that the subject judge violated several Canons of the Code of Conduct for United States Judges based on a comment he made at a semiannual meeting of the Judicial Conference of the United States and based on actions he took in presiding over a case involving the Department of Justice. Before turning to the specific allegations in the complaint, it is worth briefly describing the work of the Judicial Conference and the underlying litigation.

The Judicial Conference of the United States is the policymaking body of the federal judiciary and has served in that role for more than a century. It has 27 members: the Chief Justice of the United States, the 13 Chief Judges of the federal circuit courts of appeals, 12 District Court Judges selected from each of the regional circuit courts, and the Chief Judge of the Court of International Trade. 28 U.S.C. § 331. The Conference promotes the "uniformity of management procedures and the expeditious conduct of court business," oversees "the operation and effect of the general rules of practice and procedure" that govern federal cases, and supervises and oversees the budget, security matters, personnel, and other policymaking imperatives of the Third Branch. *Id*. The Conference meets twice a year, and the Chief Justice presides over each meeting. *See* Report of the Proceedings of the Judicial Conference of the United States 1 (Sep. 16, 2025). By statute, the Chief Justice invites the Attorney General of the United States to speak at the Conference, including "with particular reference to cases to which the United States is a party." 28 U.S.C. § 331. By custom, he invites leaders of Congress to make presentations about issues of common interest to the legislative and judicial branches. *See* Report of the Proceedings of the Judicial Conference of the United States 3 (Sep. 16,

2025). And by custom, he invites other leaders of the federal judiciary to make presentations about a variety of topics affecting the federal courts. Before and after the Judicial Conference, the members of the Conference and other leaders of the federal judiciary meet to address matters of concern to the Judicial Branch, chiefly involving judicial administration. After each meeting of the Conference, the Administrative Office of the United States Courts makes public some of the formal actions taken by the Conference as well as some of the topics covered during the Conference. Otherwise, the closed-door discussions during the Conference and other meetings are off the record and confidential. *See* The Judicial Conference of the United States and its Committees 9–10 (Aug. 2013) ("[T]he only public record of Judicial Conference activity is the *Report of the Proceedings of the Judicial Conference of the United States*.").

As for the underlying litigation, it began with a lawsuit filed before the subject judge on March 15, 2025. The plaintiffs are detained individuals allegedly affiliated with the foreign terrorist organization Tren de Aragua who seek to prevent the federal government from removing them to another country under the Alien Enemies Act. Compl. (R.1), No. 25-cv-766 (D.D.C. Mar. 15, 2025). On March 15, the judge issued two temporary restraining orders that halted (1) attempts to remove the plaintiffs, Minute Order on Motion for TRO, No. 25-cv-766 (D.D.C.), and (2) attempts to remove preliminarily certified class members, Minute Order on Motion to Certify Class, No. 25-cv-766 (D.D.C.). The United States Court of Appeals for the District of Columbia Circuit declined the government's emergency request to stay the orders on March 26. *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682 (D.C. Cir.). Two days later, on March 28, the judge extended the orders for an additional 14 days. Order on Motion for TRO (R.66), No. 25-cv-766 (D.D.C.). On April 7, in response to a request for emergency relief by the Department, the United States Supreme Court vacated the judge's temporary restraining orders. *Trump v. J.G.G.*, 145 S. Ct. 1003 (2025) (per curiam).

On April 16, the judge concluded that "probable cause exists to find the Government in criminal contempt" for failing to comply with the March 15 oral and written restraining orders and provided the government an opportunity to "purge such contempt." Mem. Op. (R.81) at 1, 2, 46, No. 25-cv-766 (D.D.C.). The government appealed and requested a writ of mandamus requiring the judge to end the contempt proceedings. The D.C. Circuit administratively stayed the contempt order on April 18. *J.G.G. v. Trump*, No. 25-5124 (D.C. Cir.). On August 8, a panel of the D.C. Circuit dismissed the government's appeal, partially granted a writ of mandamus, and vacated the probable cause order. *J.G.G. v. Trump*, 147 F.4th 1044, 1045 (D.C. Cir. 2025) (per curiam); *see id.* at 1072 (Rao, J., concurring); *id.* at 1074 (Pillard, J., dissenting).

On November 14, the D.C. Circuit declined to grant en banc review of the mandamus ruling. *J.G.G. v. Trump*, No. 25-5124, 2025 WL 3198891, at *1 (D.C. Cir.). On November 24, the judge initiated a new contempt proceeding. He requested declarations from the government by December 5, and he scheduled a hearing for December 15. *See* Order (R.196), No. 25-cv-766 (D.D.C. Nov. 28, 2025); Minute Order Scheduling a Hearing, No. 25-cv-766 (D.D.C. Dec. 8, 2025). On December 12, the D.C.

Circuit granted the Department's request to stay the contempt proceedings. *In re: Trump*, No. 25-5452, 2025 WL 3623076, at *1 (D.C. Cir.).

That brings us to today's complaint. On November 7, Mr. Fitzpatrick filed a complaint of judicial misconduct against Judge Boasberg with the Judicial Council of the D.C. Circuit. The complaint focuses on a statement the judge allegedly made during the Judicial Conference on March 11, 2025. According to the complaint, the subject judge, who is a member of the Judicial Conference, expressed to other members of the Conference his concerns that the "Administration would disregard rulings of federal courts leading to a constitutional crisis." Compl. at 3 & n.2 (quotation omitted). The complaint also targets several rulings by the judge, claiming that they showed his hostility to the Administration. The complainant does not identify himself as a participant in any of these proceedings.

The complaint maintains that the judge's comments at the Judicial Conference and his actions in the underlying litigation and other proceedings violate four Canons of the Code of Conduct for United States Judges:

> Canon 1: "A Judge Should Uphold the Integrity and Independence of the Judiciary. An independent and honorable judiciary is indispensable to justice in our society. A judge should maintain and enforce high standards of conduct and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved."
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> Canon 2(A): "A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
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> Canon 2(B): "A judge should not allow family, social, political, financial, or other relationships to influence judicial conduct or judgment. A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness."
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> Canon 3(A)(6): "A judge should not make public comment on the merits of a matter pending or impending in any court. A judge should require similar restraint by court personnel subject to the judge's direction and control. The prohibition on public comment on the merits does not extend to public statements made in the course of the judge's official duties, to explanations of court procedures, or to scholarly presentations made for purposes of legal education."

On November 26, in view of several appellate challenges to the judge's rulings in the underlying case and of concerns that the judges on the D.C. Circuit might have to recuse themselves from any proceedings before the Judicial Council, Chief Judge Srinivasan asked Chief Justice Roberts to transfer the judicial-misconduct proceeding to

another circuit. *See* Judicial-Conduct Rule 26. On December 5, the Chief Justice transferred the matter to the Judicial Council of the United States Court of Appeals for the Sixth Circuit for resolution.

II.

After conducting an initial review, the chief judge of a circuit may dismiss a complaint of judicial misconduct if he concludes: (A) that the claimed conduct, even if it occurred, "is not prejudicial to the effective and expeditious administration of the business of the courts"; (B) that the complaint "is directly related to the merits of a decision or procedural ruling"; (C) that the complaint is "frivolous" because the charges are wholly unsupported; or (D) that the complaint "lack[s] sufficient evidence to raise an inference that misconduct has occurred." Judicial-Conduct Rule 11(c)(1)(A)–(D); *see* 28 U.S.C. § 352(a), (b).

This complaint warrants dismissal.

The Subject Judge's March 11 Comment. The primary theory of the complaint is that the judge made an improper statement at the Judicial Conference on March 11 about the risk that the Administration would not comply with federal judicial rulings. This claim fails to establish a cognizable basis of misconduct. *First*, it is doubtful that the complaint contains "sufficient evidence" to support the allegations. Judicial-Conduct Rule 11(c)(1)(D). Here are the key allegations in the complaint: "During the conference, [the judge] told colleagues (other judges), that the Trump 'Administration would disregard rulings of federal courts leading to a constitutional crisis,'" and expressed "his viewpoint" that the Administration "would be unwilling to comply with judicial orders." Compl. at 3, 6 (quoting Margot Cleveland, *Exclusive: Memo Reveals D.C. Judges Are Predisposed Against Trump Administration*, The Federalist (July 16, 2025)). The complaint does not provide any evidence that the judge said that *he* had such concerns or the context in which he made the alleged remarks, including whether they were made in response to a question or in response to a broader discussion. What the complaint does instead is refer to a news article that cites an anonymous source for this information. But the anonymous source, according to the quotation in the article, offers little context for the remarks and, more importantly, contradicts the theory of the complaint. The article quotes the anonymous source as saying the judge relayed "his colleagues' concerns," not his own concerns, about the Administration's willingness to comply with court orders. Cleveland, *Memo Reveals D.C. Judges Are Predisposed Against Trump Administration*. One does not lightly launch a misconduct investigation based on vague allegations premised on an anonymous source in a news article. But even if such thin evidence might warrant further investigation in some circumstances, that would not be appropriate here given that the complainant's only source of evidence contradicts the central theory of the complaint. The facts alleged in the complaint, in short, "are too slender to convince the reasonable person" of misconduct. *In re Charge of Jud. Misconduct or Disability*, 196 F.3d 1285, 1289 (D.C. Cir. 1999); *see* 28 U.S.C. § 352(b)(1)(A)(iii).

Second, even accepting that the subject judge made this statement and even assuming for the sake of argument that it related to *his* concerns about the Administration, the statement was not "prejudicial to the effective and expeditious administration of the business of the courts." Judicial-Conduct Rule 11(c)(1)(A). The subject judge attended the Conference as one of two representatives of the D.C. Circuit, and federal law required him to be there. 28 U.S.C. § 331. The Conference acts as the policymaking body for the judiciary and consists of a diverse body of federal judges, drawn from every geographic region of the country and appointed by several different presidents. The Conference sets policy and provides guidance with respect to all manner of issues facing the judiciary—from budgets and courthouse maintenance to workplace conduct and judicial independence. On top of that, the formal meeting of the Conference involves presentations from invited guests from the elective branches, including the Attorney General and congressional leaders, about issues that often require coordination between the branches. A key point of the Judicial Conference and the related meetings is to facilitate candid conversations about judicial administration among leaders of the federal judiciary about matters of common concern. In these settings, a judge's expression of anxiety about executive-branch compliance with judicial orders, whether rightly feared or not, is not so far afield from customary topics at these meetings—judicial independence, judicial security, and inter-branch relations—as to violate the Codes of Judicial Conduct. Confirming the point, the Chief Justice's 2024 year-end report raised general concerns about threats to judicial independence, security concerns for judges, and respect for court orders throughout American history. *See 2024 Year End Report on the Federal Judiciary* at 5, 7–8.

To the extent the complainant claims that the judge's alleged March 11 remark amounts to a "public comment" with respect to "a matter pending or impending in any court" in violation of Canon 3(A)(6), that theory also falls short. The alleged comment does not refer to a case, and the *J.G.G.* action was not filed until four days later: March 15, 2025. Because the judge did not refer to a case, that makes it difficult to maintain that his comments "violated Canon 3A(6), Canon 2A, or the Judicial–Conduct Rules." *In re Charges of Jud. Misconduct*, 769 F.3d 762, 788 (D.C. Cir. 2014). The comment at any rate was not a "public" one, as it was made in a closed-door meeting in which the communications are off the record and confidential. The complaint, notably, does not claim that the judge made public what was said in private at the Conference or its related meetings.

The Subject Judge's Handling of the Underlying Litigation. The next theory of misconduct is that the judge improperly exercised jurisdiction over a case in defiance of a Supreme Court order and made other errors in handling the case. These allegations, however, "directly relate[] to the merits of a decision" and thus do not constitute judicial misconduct. 28 U.S.C. § 352(b)(1)(A)(ii); *see* Judicial-Conduct Rule 4(b)(1). The Judicial Council is not a court and has no jurisdiction to review the merits of a judge's ruling, to reverse a ruling, or otherwise to grant merits-related relief with respect to a lawsuit. *See In re Complaint of Jud. Misconduct*, 858 F.2d 331, 331–32 (6th Cir. 1988).

An allegation that a judge did not follow "prevailing law or the directions of a court of appeals in [a] particular case[]," it is true, may in extreme cases constitute cognizable misconduct. *In re Jud. Conduct & Disability*, 517 F.3d 558, 562 (U.S. Jud. Conf. 2008). But because "the characterization of such behavior as misconduct is fraught with dangers to judicial independence," the complainant must clear a high bar to maintain such a claim. *Id.* The complainant "must identify clear and convincing evidence of willfulness," which is to say "clear and convincing evidence of a judge's arbitrary and intentional departure from prevailing law based on his or her disagreement with, or willful indifference to, that law." *Id.* The complainant does not cite any prevailing law at the time of the entry of the temporary restraining orders that the judge violated. Nor does the complainant explain why the contempt hearings "clear[ly] and convincing[ly]" disregarded the Supreme Court's order vacating the temporary restraining orders. *Id.* Because these allegations in the end merely claim that the judge erred, they are not the proper subject of a misconduct complaint. *See* Judicial-Conduct Rule 4(b)(1). Judicial-misconduct proceedings are not a substitute for the normal appellate review process. *See id.*

To the extent that the complaint charges the judge with exhibiting bias due to the combination of his alleged statement at the Judicial Conference and his subsequent rulings in the underlying litigation, that too is "directly related to the merits of a decision" and thus warrants dismissal. Judicial-Conduct Rule 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii). The underlying litigation offered the parties a mechanism for addressing these precise concerns. A party may file a motion to recuse if it thinks a judge will not provide a dispassionate analysis of the evidence and the law. 28 U.S.C. §§ 144, 455. And if the trial judge denies the motion, the party may seek relief through the appellate process. *See United States v. Williamson*, 903 F.3d 124, 137 (D.C. Cir. 2018). To the extent the complainant thinks the rulings speak for themselves when it comes to bias, that is rarely the case. "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994). The Supreme Court's decision to vacate the temporary restraining orders does not by itself show bias, particularly given the existence of several justices in dissent. *J.G.G.*, 145 S. Ct. at 1005–06; *id.* at 1007–16 (Sotomayor, J., dissenting) (joined by Justice Kagan, Justice Jackson, and in part by Justice Barrett); *id.* at 1016–17 (Jackson, J., dissenting). Nor does the D.C. Circuit's decision to vacate the probable-cause order suffice by itself to show bias, as it led to a split panel and weeks of deliberations over whether to take the case en banc. *See J.G.G.*, 147 F.4th at 1051–57 (Katsas, J., concurring); *id.* at 1064–68 (Rao, J., concurring); *id.* at 1074 (Pillard, J., dissenting); *J.G.G.*, 2025 WL 3198891, at *1. The proper forum for these allegations is the road already taken: relief in the D.C. Circuit and, if need be, the Supreme Court.

Subpoenas and Nondisclosure Orders. The complaint separately alleges that the judge "signed" "nondisclosure orders" with respect to several subpoenas arising from a distinct criminal investigation, "preventing the subjects from even knowing of the subpoenas' existence." Compl. at 4. The judge's "greenlighting of parts of an investigation," the complaint adds, "that included hundreds of influential Republicans, including members of Congress, not only undermines the integrity of the judiciary but it also exceeds the boundaries of the judiciary by encroaching upon the powers of Congress

under Article 1." Compl. at 6. The complainant, however, does not develop any argument or provide any meaningful evidence to support the allegations. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). He does not "clear[ly] and convincing[ly]" show that the subject judge intentionally flouted existing precedent. *In re Judicial Conduct & Disability*, 517 F.3d at 562. He does not explain in any detail the judge's role in approving the nondisclosure orders or his relationship to the subpoenas. And he does not explain in any detail what occurred, why it showed bias under Canon 2(B), or why the judge failed to "uphold the integrity and independence of the judiciary" under Canon 1. Stripped of its conclusory accusations, this attack comes down to a critique of the judge's rulings on the merits. But complainants, to repeat, may not use the judicial-misconduct process to relitigate the results of hearings and investigations. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rules 4(b)(1), 11(c)(1)(B).

Accordingly, it is **ORDERED** that the complaint be dismissed under 28 U.S.C. § 352(b)(1)(A)(i)–(iii) and Judicial-Conduct Rule 11(c)(1)(A), (B), and (D), and that the names of the complainant and the subject judge be disclosed under Judicial-Conduct Rule 24(a)(1) and (5).

/s/ Jeffrey S. Sutton
Chief Judge

Date: December 19, 2025