JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re: Complaint of Judicial Misconduct	* * * * * * *	Complaint Number 06-25-90173

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by Chad Mizelle, then the Chief of Staff to the Attorney General of the United States, on behalf of the Department of Justice, against the Honorable James E. Boasberg, Chief Judge of the United States District Court 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 this complaint of judicial misconduct. On July 29, 2025, the Department of Justice filed the complaint 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 judge, who is a member of the Judicial Conference, expressed "concerns" to other members of the Conference "that the Administration would disregard rulings of federal courts, leading to a constitutional crisis." Compl. at 4. In the weeks that followed the alleged statement, according to the complaint, the judge made several rulings in the underlying litigation that demonstrated the judge's hostility toward the Administration.

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

> Canon 1: "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. The provisions of this Code should be construed and applied to further that objective."
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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 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 lacks "sufficient evidence" to support the allegations. Judicial-Conduct Rule 11(c)(1)(D). Here is the key allegation in the complaint: "On March 11, 2025, at one of the Conference's semiannual meetings, Judge Boasberg disregarded its history, tradition, and purpose to push a wholly unsolicited discussion about 'concerns that the Administration would disregard rulings of federal courts, leading to a constitutional crisis.' By singling out a sitting President who was (and remains) a party to dozens of active cases, Judge Boasberg attempted to transform a routine housekeeping agenda into a forum to persuade the Chief Justice and other federal judges of his preconceived belief that the Trump Administration would violate court orders." Compl. at 4. The Department identified one source of evidence, Attachment A, for the judge's statement and for the setting in which it occurred. The complaint, however, did not include the attachment. The D.C. Circuit contacted the Department about the missing attachment and explained that, if it failed to submit the attachment, the circuit would consider the complaint as submitted. The Department did not supply the attachment.

In the absence of the attachment, the complaint offers no source for what, if anything, the subject judge said during the Conference, when he said it, whether he said it in response to a question, whether he said it during the Conference or at another meeting, and whether he expressed these concerns as his own or as those of other judges. Later in the complaint, to be sure, the Department refers to a Fox News clip discussing the same allegation. But it does not identify any source, contain any specifics, or answer any of the above questions. A recycling of unadorned allegations with no reference to a source does not corroborate them. And a repetition of uncorroborated statements rarely supplies a basis for a valid misconduct complaint. "[R]umor[s] and gossip that at most could [constitute] leads into possible misconduct" fail to carry a complaint. *In re Complaint of Jud. Misconduct*, 591 F.3d 638, 646 (U.S. Jud. Conf. 2009).

Second, even assuming for the sake of argument that the subject judge made this statement at some point during the Judicial Conference or its related meetings, 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 security and 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 Department 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 all but guarantees that his comments did not "violate[] 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 second theory of misconduct is that the judge improperly exercised jurisdiction over a case in defiance of a Supreme Court order, mistreated the Department during the case, 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 subject judge's rulings, to reverse a judge's ruling, or otherwise to grant merits-related relief with respect to an underlying lawsuit. *See In re Complaint of Judicial 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 Judicial 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 complaint does not meet this standard. While the complaint contends that

the judge was "[u]ndeterred by the Supreme Court's reversal," Compl. at 6, it does not explain how a Supreme Court ruling about a prior action by the judge necessarily shows "willful indifference" when the judge addresses a distinct set of circumstances in a later ruling. *In re Judicial Conduct & Disability*, 517 F.3d at 562. Because these allegations in the end merely challenge the merits of the judge's actions, they are not the proper subject of a misconduct complaint and do not warrant the Department's request for a referral of the complaint to a special investigative committee. *See* Judicial-Conduct Rule 4(b)(1). When the executive branch's deep convictions about the law meet the judicial branch's deep convictions about the law in a trial court, the answer is to invoke the appellate process, not the misconduct process, to resolve the dispute.

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." Judicial-Conduct Rule 11(c)(1)(B); *see* 28 U.S.C. § 352(b)(1)(A)(ii). The Department, more specifically, claims that the judge (1) "publicly forecasted his baseless predictions of presidential lawlessness, then issued erroneous rulings based on that preconceived notion"; (2) "attempted to transform a routine housekeeping agenda into a forum to persuade the Chief Justice . . . that the Trump Administration would violate court orders"; (3) "degraded public confidence in the integrity of the judiciary" by "expressing his view that a particular litigant would violate court orders"; and (4) issued "ensuing judicial actions over the next five weeks [that] followed the very script he had sketched at the Conference." Compl. at 4–5, 7. The Department then points to the following "ensuing judicial actions" as proof that the judge's "preconceived belief[s]" "hardened into judicial action driven by an agenda, not the facts and the law": (1) he "rushed the government through complex litigation, sometimes giving . . . less than 48 hours to respond and threatening criminal contempt"; (2) he held an emergency "'compliance' hearing" that implied non-compliance and failed to respect the "'presumption of regularity'" that applies to executive-branch actions; and (3) he "expanded relief to a nationwide class, cementing his restraints before the Government's first substantive brief could be filed." Compl. at 3–6.

The underlying litigation, however, offered the parties a mechanism for addressing concerns of judicial bias. 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 Department 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 Kagan, and Jackson, JJ., and in part by Barrett, J.); *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 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.

To the extent the complaint asks that the underlying case be reassigned to another judge, that is not a form of relief available through the complaint process. *In re Complaint of Jud. Misconduct*, 134 F.4th 1265, 1267 (9th Cir. 2025); Digest of Authorities on the Judicial Conduct and Disability Act at 202. While judicial councils may prohibit judges engaged in misconduct from handling cases, 28 U.S.C. §§ 352, 354, they do not have authority to reassign specific cases to other judges, *In re Complaint of Jud. Misconduct*, 134 F.4th at 1267; Digest at 202.

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