

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-18-90027

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IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

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ORIGINAL PROCEEDINGS UNDER 28 U.S.C. § 351

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MEMORANDUM OPINION

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(Filed: April 19, 2018)

PRESENT: SMITH, *Chief Judge*.

This is a complaint filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States District Judge (the “Subject Judge”). For the reasons discussed below, the complaint will be dismissed.

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, after review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is frivolous or lacks sufficient evidence to raise an inference of misconduct. 28 U.S.C. §§ 352(b)(1)(A)(i)-(iii).

Complainant, a pro se plaintiff in a civil rights matter pending before the Subject Judge, moved for the appointment of pro bono counsel. One of the defendants opposed

the motion by arguing, *inter alia*, that Complainant has a law degree and therefore does not require pro bono counsel. In reply, Complainant stated that she “graduated from law school . . . over fifteen years ago” and “does not practice law.” The Subject Judge denied the motion, describing Complainant as a “Law School graduate and disbarred . . . attorney,” and concluding that Complainant “is a markedly able *pro se* plaintiff due to her law school education and legal experience.”

In this complaint of judicial misconduct, Complainant takes issue with the Subject Judge’s statement that Complainant is “disbarred.” Complainant argues that her professional standing is not at issue in the case, that the reference constitutes a “smear[ ]” of her reputation, that the Subject Judge’s statement is a “false accusation,” and that the description demonstrates bias against her. Complainant demands that the source of the information be provided to her and requests that the information be published.

Upon review, it is apparent that briefs and correspondence filed in the civil proceeding provided information about Complainant’s legal education and bar status. Those submissions are available on the District Court’s public docket. In addition, the Subject Judge issued a memorandum opinion in March 2018 providing citations to case law discussing Complainant’s legal education and bar status. That case law is similarly publicly available. The record reveals no basis for a conclusion that the Subject Judge has engaged in any form of judicial misconduct. The allegations of this complaint are

therefore subject to dismissal. 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

Because Complainant raises no other allegations, this complaint will be dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(iii).

s/ D. Brooks Smith  
Chief Judge

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ORDER

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(Filed: April 19, 2018)

PRESENT: SMITH, *Chief Judge*.

On the basis of the foregoing opinion entered on this date, it is ORDERED AND ADJUDGED that the written complaint brought pursuant to 28 U.S.C. § 351 is hereby dismissed under 28 U.S.C. § 352(b)(1)(A)(iii).

This order constitutes a final order under 28 U.S.C. § 352(c). Complainant is notified in accordance with Rules 11(g)(3) and 18, *Rules for Judicial-Conduct and Judicial-Disability Proceedings*, of the right to appeal this decision by the following procedure:

Rule 18(a) Petition. A complainant or subject judge may petition the Judicial Council of the Third Circuit for review.

Rule 18(b) Time. A petition for review must be filed in the Office of the Circuit Executive within **42 days** after the date of the chief judge's order.

18(b) Form. The petition should be in letter form, addressed to the Circuit Executive, and in an envelope marked "Misconduct Petition" or "Disability

Petition.” The name of the subject judge must not be shown on the envelope. The letter should be typewritten or otherwise legible. It should begin with “I hereby petition the judicial council for review of . . .” and state the reasons why the petition should be granted. It must be signed. There is no need to enclose a copy of the original complaint.

The full text of the *Rules for Judicial-Conduct and Judicial-Disability*

*Proceedings* is available from the Office of the Circuit Executive and on the Court of

Appeals’ internet site, [www.ca3.uscourts.gov](http://www.ca3.uscourts.gov).

s/ D. Brooks Smith  
Chief Judge

Dated: April 19, 2018