

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-23-90134

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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: February 21, 2024)

PRESENT: CHAGARES, Chief Judge.

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States District Judge (Subject Judge). For the following reasons, 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 filed a civil complaint in federal court. After granting Complainant’s request to proceed in forma pauperis, the Subject Judge reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and determined that it failed to state a claim on which relief

may be granted. The Subject Judge dismissed it without prejudice to Complainant's filing an amended complaint. More than two months passed after the date that Complainant was required to file an amended complaint, but she did not file anything. The Subject Judge entered an order closing the case. Complainant then filed a document construed as a motion for reconsideration, which was denied. She did not take an appeal. She now has submitted a judicial misconduct complaint arguing that she should have been afforded a hearing before the dismissal of her action, that the matter should be "remanded," and that the Subject Judge should be recused from adjudicating her case.<sup>1</sup>

Complainant's allegations primarily question the correctness of the Subject Judge's rulings and are, therefore, merits-related. Merits-related allegations do not constitute cognizable misconduct. Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse."). This judicial misconduct proceeding does not afford Complainant an opportunity to seek substantive review of the merits of judicial decisions. "The misconduct procedure [under the Judicial Conduct and Disability Act] is not designed as a substitute for, or supplement to, appeals or motions for reconsideration. Nor is it designed to provide an avenue for collateral attacks or other challenges to judges' rulings." In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability, 517 F.3d 558, 561 (U.S. Jud.

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<sup>1</sup> Complainant has previously filed several judicial misconduct complaints. See J.C. Nos. 91-34, 03-11-90045, 03-17-90106. Those complaints were determined to be merits-related, unsubstantiated, and frivolous.

Conf. 2008). All of Complainant’s merits-related allegations are thus subject to dismissal. See 28 U.S.C. § 352(b)(1)(A)(ii); Rules 4(b)(1), 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

To the extent that Complainant raises claims that are not merits-based, they lack evidentiary support. Complainant states that the Subject Judge “created a conflict of interest,” but it is unclear exactly what conflict she means. In any event, the record has been reviewed, and it reveals no improper conduct. These allegations are therefore subject to dismissal as frivolous and unsupported by evidence that would raise an inference that misconduct has occurred. 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Accordingly, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and (iii).

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Michael A. Chagares  
Chief Judge

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ORDER

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(Filed: February 21, 2024)

PRESENT: CHAGARES, 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)(ii) and (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).

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Michael A. Chagares  
Chief Judge

Dated: February 21, 2024