

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. No. 03-15-90017

---

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

---

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

---

MEMORANDUM OPINION

---

Filed: July 9, 2015

PRESENT: McKEE, 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 (hereinafter “Subject Judge”). Complainant’s allegations stem from his dissatisfaction with the Subject Judge’s dismissal of his civil action alleging, among other things, that the individual defendants interfered with his efforts to amend his military record and harassed him. Complainant further alleges that a former National Security Advisor has placed him under illegal surveillance and has been stalking him. In his complaint of judicial misconduct, Complainant alleges that the Subject Judge is “participating” in the crimes against Complainant and his family. For the reasons discussed below, the instant complaint will be dismissed.<sup>1</sup>

---

<sup>1</sup> Complainant’s appeal of the Subject Judge’s dismissal of his civil action remains pending at this time.

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). The “misconduct procedure [under the 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. Conf. 2008).

As a preliminary matter, Complainant makes allegations concerning individuals and entities who are not subject to the Judicial Conduct and Disability Act; e.g., the FBI, a former National Security Advisor, a United States Attorney, an Assistant United States Attorney, and Court Security Officers. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i); Rule 4, Rules for Judicial-Conduct and Judicial-Disability Proceedings. Accordingly, these allegations will not be addressed in this opinion.

Complainant further alleges that the Subject Judge has an “obvious inability and disability” and “suffers from dementia, and the early symptoms of Alzheimer’s disease has now crept into her orders.” Complainant’s sole support for these allegations of disability, however, is his disagreement with the Subject Judge’s orders and decisions.

For example, Complainant challenges the Subject Judge’s decision to grant an extension of time to the defendants, her refusal to issue an injunction, her refusal to enter a default judgment, her decision to stay discovery, and her warning that sanctions could be forthcoming if Complainant continued to file meritless motions. Complainant further alleges that the Subject Judge fails to uphold the Federal Rules of Civil Procedure and has displayed an inability to properly apply the law to the facts. These allegations are plainly merits-related and are not cognizable under the Judicial Conduct and Disability Act. See 28 U.S.C. § 352(b)(1)(A)(ii) (chief judge may dismiss a complaint if he or she finds that it is directly related to the merits of a decision or procedural ruling); Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings (“[a]n allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related”); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings (a complaint must be dismissed in whole or in part to the extent that the chief judge concludes that the complaint is directly related to the merits of a decision or procedural ruling). In any event, the record has been reviewed and there is no evidence to support Complainant’s allegations regarding the existence of a disability. Complainant’s allegations are dismissed as frivolous and unsupported by any evidence that would raise an inference that misconduct has occurred or that a disability exists. 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant also alleges that the Subject Judge has allowed the assigned Assistant United States Attorney and the FBI to conduct ex parte communications and is “now participating in the crimes” against Complainant and his family. Complainant also makes the vague assertion that “[o]ther lawyers” complain about the Subject Judge’s “prejudicial rulings” and her “advanced age.” There is no evidence to support these baseless allegations and they are dismissed as frivolous and unsupported by any evidence that would raise an inference that misconduct has occurred or that a disability exists. Id.

Finally, it is noted that Complainant filed two prior complaints of judicial misconduct which were also dismissed as frivolous and merits-related. See J.C. Nos. 03-10-90009 and 03-10-90090. Given the frivolous and merits-related nature of Complainant’s current and prior allegations, his attention is directed to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.<sup>2</sup> Future abuse of the misconduct procedures could result in the imposition of sanctions under that rule.

For the foregoing reasons, the complaint is dismissed pursuant to 28 U.S.C.

---

<sup>2</sup> Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings, states:

(a) **Abusive Complaints.** A complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints. After giving the complainant an opportunity to show cause in writing why his or her right to file further complaints should not be limited, a judicial council may prohibit, restrict, or impose conditions on the complainant’s use of the complaint procedure. Upon written request of the complainant, the judicial council may revise or withdraw any prohibition, restriction, or condition previously imposed.

§ 352(b)(1)(A)(i), (ii), and (iii).

s/ Theodore A. McKee  
Chief Judge

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. No. 03-15-90017

---

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

---

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

---

ORDER

---

Filed: July 9, 2015

PRESENT: McKEE, 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)(i), (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 of the Court of Appeals within **35 days** of the date on the letter informing the parties of the Chief Judge's order.

18(b) Form. The petition should be in letter form, addressed to the Circuit Executive of the Court of Appeals, 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 of the Court of Appeals for the Third Circuit and on the Court of Appeals’ internet site, [www.ca3.uscourts.gov](http://www.ca3.uscourts.gov).

s/ Theodore A. McKee  
Chief Judge

Dated: July 9, 2015