

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. No. 03-16-90087

---

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

---

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

---

MEMORANDUM OPINION

---

(Filed: April 6, 2017)

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 frequent pro se litigant, filed a bankruptcy appeal in the District Court. The matter was assigned to the Subject Judge. The Subject Judge scheduled a hearing at which Complainant did not appear. The Subject Judge then issued an order to

show cause why sanctions should not be imposed for Complainant's failure to appear and scheduled a show cause hearing. After Complainant also failed to appear at the show cause hearing, the Subject Judge denied Complainant's motion to proceed *in forma pauperis* and dismissed the case with prejudice. Complainant appealed and sought to proceed *in forma pauperis* before the Court of Appeals. The Court of Appeals denied the motion and directed Complainant to pay the appeal fee. No fee was paid and the appeal was dismissed.

Before the District Court, Complainant continued to file miscellaneous notices and declarations, with titles including "The U.S. Government is Hiring Irish Mobsters to Assassinate Me," "What Does it Take to Get Pennsylvanians to Wake Up to Statewide Corruption?," and "Mark Zuckerberg and His Facebook Mind Control Strategies and Known Atheist." After dozens of such submissions in the closed case, the Subject judge revoked Complainant's permission to file documents electronically.

This is Complainant's second complaint of misconduct naming this Subject Judge. See J.C. No. 03-16-90046. In this current complaint of judicial misconduct, Complainant disputes a number of the Subject Judge's rulings in the bankruptcy appeal, including the denial of a motion for a change of venue, the orders directing Complainant to appear at hearings, and the revocation of Complainant's electronic filing privilege. Clearly, these allegations are merits-related. "An allegation that calls into question the correctness of a judge's ruling, . . . without more, is merits-related." Rule 3(h)(3)(A), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. Merits-related allegations do not constitute

cognizable misconduct under the Judicial Conduct and Disability Act. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Rules 3(h)(3)(A), 11(c)(1)(B), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. Such allegations will therefore be dismissed.<sup>1</sup>

Complainant also accuses the Subject Judge of being “purely malicious” and of issuing orders intended to “put the Complainant in harm’s way and his life at risk.” To the extent these allegations are not merits-related, they are unsubstantiated. The record provides no basis for a conclusion that the Subject Judge has engaged in judicial misconduct. Accordingly, Complainant’s remaining allegations are 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*.

Based on the foregoing, the complaint will be dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), (ii), and (iii). This is Complainant’s third complaint of judicial misconduct this year; he has raised allegations against a total of seven federal judges and has named this Subject Judge twice. *See* J.C. Nos. 03-16-90005; 03-16-90006; 03-16-

---

<sup>1</sup> In addition to the allegations concerning the named Subject Judge, Complainant presents allegations disputing decisions rendered by state court judges in unrelated state court proceedings, as well as decisions by other District Judges and Circuit Judges in unrelated federal proceedings. Any allegations concerning state court judges are not cognizable in this proceeding because the Judicial Council lacks authority to take disciplinary action against a state court judge. *See* 28 U.S.C. § 351(d)(1); Rules 4, 8(c) *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. The allegations concerning other federal judges are merits-related. Because such allegations are not cognizable as judicial misconduct and therefore do not provide “reasonable grounds for inquiry” into the existence of judicial misconduct, no complaints will be identified. *See* Rule 5, *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

90007; 03-16-90046; 03-16-90047; 03-16-90048; 03-16-90049. Complainant's prior complaints, like this complaint, were dismissed as non-cognizable, frivolous, and unsupported. Accordingly, Complainant's attention is directed to Rule 10(a), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.<sup>2</sup> Future abuse of the judicial misconduct complaint procedure could result in the imposition of restrictions under this provision.

s/ D. Brooks Smith  
Chief Judge

---

<sup>2</sup> Rule 10(a) of the *Rules of Judicial-Conduct and Judicial-Disability Proceedings* provides:

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, the 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.

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. No. 03-16-90087

---

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

---

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

---

ORDER

---

(Filed: April 6, 2017)

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)(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 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 6, 2017