

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. Nos. 03-18-90017, 03-18-90018, 03-18-90019

---

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

---

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

---

MEMORANDUM OPINION

---

(Filed: April 9, 2018)

PRESENT: SMITH, *Chief Judge*.

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against three United States Circuit Judges (“Subject Judge I,” “Subject Judge II,” and “Subject Judge III”).<sup>1</sup> 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

---

<sup>1</sup> Complainant named a fourth Circuit Judge, who passed away in 2016. The complaint was not accepted for filing as to the deceased Circuit Judge. *See* Rule 8(c), *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (circuit clerk must not accept a complaint against a non-covered person). Accordingly, allegations concerning the deceased Circuit Judge will not be considered in this opinion.

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).

In 2009, a now-retired Bankruptcy Judge dismissed a motion that Complainant filed in her bankruptcy proceeding. Complainant attempted to appeal that ruling to the District Court, but the appeal was dismissed as untimely filed. A panel including Subject Judge I and Subject Judge II affirmed the dismissal. In 2010, Complainant filed a complaint of judicial misconduct concerning the now-retired Bankruptcy Judge's actions in the course of the bankruptcy proceeding. Subject Judge III issued a memorandum opinion and order dismissing the complaint pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii) as merits-related, frivolous, and unsupported by evidence of misconduct. *See* J.C. No. 03-10-90119. Complainant filed a petition for review with the Judicial Council, and the Judicial Council affirmed Subject Judge III's order.

In this complaint of judicial misconduct, Complainant claims "fraud upon the court" and "civil rights violations under the 5th and 14th Amendments of the United States Constitution and the Bill of Rights – Due Process of Law." Specifically, she alleges that the Bankruptcy Judge "illegally dismissed" the 2009 motion and requests that the ruling be set aside. She further argues that "every decision from that point on" is "vitiate[d] (ma[de] ineffective – invalidate[d])," including rulings rendered by Subject Judges I, II, and III. Complainant argues that there is "no statute of limitations on fraud" and demands that she be paid a judgment of \$3.5 million plus treble damages. In

support of the complaint, Complainant submitted over 150 pages of documentary exhibits, including court filings, court rulings, correspondence, and legal authority.

Upon close review of the complaint and all supporting materials, it is apparent that Complainant seeks primarily to challenge the 2009 bankruptcy order, as well as all of her subsequent unsuccessful efforts to have that order set aside. Clearly, these allegations are merits-related. Rule 3(h)(3)(A), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. This applies equally to Complainant’s allegations concerning the ruling rendered by Subject Judge III in the course of her prior judicial misconduct proceeding. *See* Commentary to Rule 3, *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (“[A] complaint challenging the correctness of a chief judge’s determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related . . . even though it does not concern the judge’s rulings in Article III litigation.”). A disagreement with the merits of a judicial ruling does not give rise to cognizable misconduct. *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*. Accordingly, all of Complainant’s merits-related allegations will be dismissed.

Complainant has requested that judicial decisions and rulings with which she does not agree be set aside, and she seeks an award of monetary damages. Such relief is not available in this administrative proceeding. 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).

Complainant's claims that the Subject Judges have perpetuated a "fraud on the court" and have violated her civil rights are unsubstantiated. Indeed, it appears that Complainant's sole basis for filing this complaint of judicial misconduct is her disagreement with the merits of the Subject Judges' decisions and rulings. Accordingly, all 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, this complaint will be dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), (ii), and (iii). 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 may result in the imposition of restrictions under this provision.

---

<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.

s/ D. Brooks Smith  
Chief Judge

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

---

J.C. Nos. 03-18-90017, 03-18-90018, 03-18-90019

---

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

---

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

---

ORDER

---

(Filed: April 9, 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)(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 9, 2018