

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-18-90168

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: October 1, 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.¹

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).

¹ Complainant previously filed two prior complaints against the same District Judge which were dismissed as frivolous and merits-related. J.C. Nos. 03-15-90061 and 03-16-90013. Complainant also filed a complaint naming three Circuit Judges that was likewise dismissed. J.C. Nos. 03-18-90051, 03-18-90052, 03-18-90053.

Complainant alleges that the Subject Judge failed to adjudicate cases according to the rule of law. She lists various cases and statutes in support of her position and complains about the Subject Judge's decisions and rulings in an underlying civil matter.² To the extent any allegations are intended to challenge the merits of any decisions or rulings by the Subject Judge, they 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*. Accordingly, all of her merits-related allegations are subject to dismissal.³

This complaint further alleges that the Subject Judge violated federal law by engaging in docket manipulation, concealing documents, and participating in a conspiracy. The record has been reviewed and there is no evidence of judicial misconduct. Complainant's allegations are entirely unsubstantiated. This complaint is therefore subject to dismissal as frivolous and unsupported by evidence that would raise

² Complainant makes similar merits-related allegations in an unsworn supplement to her complaint. Complainant's unsworn supplement does not set forth reasonable grounds for inquiry into whether misconduct occurred and I decline to identify a complaint based upon her allegations. Rule 5, *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

³ Notably, Complainant filed an appeal which is currently pending. Complainant's prior appeal of another decision issued by the Subject Judge's decisions was unsuccessful. In an opinion affirming the Subject Judge's decision, the Third Circuit panel concluded that Complainant "wholly failed" to establish the existence of a "criminal enterprise" and concluded there was "simply no evidence of fraud or corruption in the record as it pertains to the arbitration award." Complainant thereafter filed a complaint of judicial misconduct against the three Circuit judges who sat on the panel. As noted above, that complaint was likewise dismissed. J.C. Nos. 03-18-90051, 03-18-90052, 03-18-90053 (dismissing complaint as frivolous and merits-related).

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*.⁴

Given the frivolous and merits-related nature of Complainant's current and prior allegations, her attention is directed to Rule 10(a), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.⁵

Based on the foregoing, this complaint will be dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), (ii), and (iii).

s/ D. Brooks Smith
Chief Judge

⁴ Complainant also makes allegations concerning clerk's office employees who are not covered by the Judicial Conduct and Disability Act. Accordingly, these allegations will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i); Rule 4, *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

⁵ 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, 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.

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ORDER

(Filed: October 1, 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.

s/ D. Brooks Smith
Chief Judge

Dated: October 1, 2018