

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-20-90020, 03-20-90023, 03-20-90028

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: July 6, 2020)

PRESENT: SMITH, *Chief Judge*.

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States Circuit Judge (“Subject Judge I”), a United States District Judge (“Subject Judge II”), and a United States Magistrate Judge (“Subject Judge III”). 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,

¹ Complainant captions her complaint of judicial misconduct as a “criminal complaint.” The United States Attorney’s Office is responsible for initiating federal criminal proceedings. Furthermore, Complainant names many individuals who are not judges in her complaint. As Complainant was informed in her docketing letter, the complaint was only accepted for filing under the Judicial Conduct and Disability Act with respect to the federal judges named in her complaint. Complainant’s allegations concerning other individuals (e.g., U.S. Marshals, case managers, and other Clerk’s office employees) will not be addressed in the present proceedings. 28 U.S.C. § 352(b)(1)(A)(i); Rule 1(a), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

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 alleges that Subject Judge I made a decision based on incomplete paperwork and “colluded” and “conspired” with Clerk’s office employees. Complainant also contends that Subject Judge I’s order is “null and void.” Complainant states that Subject Judge II violated local procedural rules and denied her a full and fair opportunity to litigate and that her order is also “null and void.” Complainant asserts that Subject Judge III violated her constitutional rights and denied an adjournment.²

It is evident that Complainant seeks primarily to dispute the merits of the Subject Judges’ procedural rulings and decisions. Allegations disputing the merits of judicial rulings do not constitute cognizable misconduct under the Judicial Conduct and Disability Act. “Cognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling....” Rule 4(b)(1), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. Merits-related allegations are not cognizable as misconduct because 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

² Complainant filed a document which is nearly identical to the present complaint in her pending direct appeal. I express no opinion as to the merits of Complainant’s pending appeal, or any legal issues raised therein, in the present separate administrative proceeding.

F.3d 558, 561 (U.S. Jud. Conf. 2008). Thus, all such non-cognizable allegations are 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*.

Complainant's vague allegations about bias, prejudice, and collusion do not support her complaint of judicial misconduct. Complainant provides no evidence for her claims other than her disagreement with the Subject Judges' rulings. Moreover, a review of the record reveals no evidence to support her claims. Complainant's remaining 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*.

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

s/ D. Brooks Smith
Chief Judge

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ORDER

(Filed: July 6, 2020)

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: July 6, 2020