

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. Nos. 03-20-90039, 03-20-90040

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IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

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

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MEMORANDUM OPINION

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(Filed: October 1, 2020)

PRESENT: SMITH, *Chief Judge*.

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

In 2013 and 2014, Complainant filed four pro se civil rights complaints that were assigned to Subject Judge I. Subject Judge I closed two matters for failure to timely comply with court orders, dismissed the third matter for failure to state a claim, and

granted summary judgment to the defendants in the fourth matter. In 2018, Complainant filed a pro se civil rights complaint that was assigned to Subject Judge II. Dispositive motions have been filed and the matter remains pending.

In this complaint of judicial misconduct, Complainant alleges that the Subject Judges<sup>1</sup> “are allowing ‘white’ supremacists to commit fraud to prosecute [him] several times that could be proven false with evidence they withhold and alter.” In addition, Complainant alleges that the Subject Judges “are using their judicial discretion to cover up the violation of federal and state civil rights by state law enforcement officials with the police force, bar association, and state judges.” Finally, Complainant alleges that the Subject Judges “are using racist federal rulings to allow state judges to falsely incarcerate impoverished citizens and appointing faulty counsel to obtain plea agreements that violate state legislation and case law.”

Complainant does not provide any evidentiary basis for any of these allegations. It is apparent, however, that many of Complainant’s allegations are intended to collaterally attack judicial decisions and rulings, including Subject Judge I’s judgments closing the four 2013 and 2014 civil rights complaints. Such allegations are merits-related and do not constitute cognizable misconduct. Rule 4(b)(1), *Rules for Judicial-Conduct and Judicial-*

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<sup>1</sup> In addition to the allegations concerning Subject Judges I and II, Complainant presents allegations against a deceased District Judge. Complaints against deceased judges are not accepted for filing because complaints may only be filed against judges currently holding an office described in Rule 1(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. See Rule 8(c), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. Accordingly, allegations concerning the deceased judge will not be considered in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

*Disability Proceedings* (“Cognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.”). “The misconduct procedure [under the Judicial Conduct and Disability 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). Accordingly, all such merits-related 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*.

To the extent they are not merits-related, the allegations of the complaint are entirely unsubstantiated. The record reveals no support for Complainant’s claims that the Subject Judges are involved in a “cover up,” are motivated by racial bias, or have otherwise engaged in any form of judicial misconduct. Accordingly, the complaint is also 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).

s/ D. Brooks Smith  
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Chief Judge

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ORDER

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(Filed: October 1, 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](http://www.ca3.uscourts.gov).

s/ D. Brooks Smith

Chief Judge

Dated: October 1, 2020