

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-21-90036, 03-21-90037, 03-21-90041

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: September 21, 2021)

PRESENT: SMITH, *Chief Judge*.

These three complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States District Judge (“Subject Judge I”), a United States Circuit Judge (“Subject Judge II”), and a United States Magistrate Judge (“Subject Judge III”). For the reasons discussed below, the complaints 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 has filed multiple pro se proceedings in federal court concerning a traffic citation and related matters. He has filed these three lengthy complaints of judicial

misconduct against the Subject Judges, who oversaw aspects of the proceedings. Each complaint is accompanied by voluminous documentation including court submissions, judicial orders and opinions, legal memoranda, copies of legal rules, and other items.

In the first complaint, Complainant's allegations include claims that Subject Judge I used his office to obtain special treatment for the defendant by "fail[ing] to comply with the complaint process," allowed the defendant and his attorney to make misrepresentations on the record without imposing discipline upon them, and issued a judgment that "does not reflect consideration nor finality language." Complainant accuses Subject Judge I of "mismanag[ing] the case" and contends that Subject Judge I treated him in a demonstrably egregious and hostile manner and deprived him of his rights. Complainant also alleges that Subject Judge I is biased against him based upon Complainant's religion, race, and national origin.

Like the complaint against Subject Judge I, the second complaint alleges that Subject Judge II used his office to obtain special treatment for the defendant by "fail[ing] to comply with the complaint process." The complaint further alleges, *inter alia*, that Subject Judge II retaliated against him for exercising his appellate rights, terminated his appeal without due process, failed to consider the evidence presented, failed to consider applicable statutes and case law, and treated Complainant in a demonstrably egregious and hostile manner. Complainant also contends that Subject Judge II issued a decision in his case that "did not serve the interest of justice."

Finally, the third complaint alleges that Subject Judge III used her office to obtain special treatment for the defendant through “failure to comply with the complaint process and suppression of evidence.” Complainant contends, among other things, that Subject Judge III treated Complainant in a demonstrably egregious and hostile manner, engaged in misconduct by failing to adhere to court procedural rules, and retaliated against Complainant for participating in the judicial system. In addition, Complainant alleges that the defendant made false statements and misrepresentations on the record and Subject Judge III “failed to report” that conduct.

The majority of Complainant’s allegations appear to raise disputes with judgments, opinions, and orders rendered by the three Subject Judges. Such allegations are merits-related and do not constitute cognizable misconduct. Rule 4(b)(1), *Rules for Judicial-Conduct and Judicial-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). All of Complainant’s merits-related allegations are therefore 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 Complainant's allegations of misconduct are not merits-related, they are wholly lacking in evidentiary support. Upon review of the substantial materials Complainant submitted in support of his complaints as well as the records of Complainant's court proceedings, there is no indication that the three Subject Judges harbored a prejudice against Complainant, acted in a demonstrably egregious and hostile manner, intentionally interfered with Complainant's rights, or otherwise engaged in judicial misconduct. 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, these complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and (iii). It is noted that Complainant filed these three separate complaints within a few weeks of each other. As discussed herein, each complaint is merits-related, frivolous, and unsupported. Complainant is therefore cautioned pursuant to Rule 10 of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*¹ that

¹ Rule 10(a) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings* provides:

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.

future abuse of the judicial misconduct complaint procedure may result in the imposition of filing restrictions.

s/ D. Brooks Smith
Chief Judge

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ORDER

(Filed: September 21, 2021)

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)(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: September 21, 2021