

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. Nos. 03-22-90006 and 03-22-90026

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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: May 27, 2022)

PRESENT: CHAGARES, Chief Judge.

These two complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States Bankruptcy Judge (“Subject Judge”). 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 alleges that the Subject Judge has lied throughout the proceedings. Specifically, Complainant disputes the Subject Judge’s ruling that Complainant was never ordered to withdraw a company (“Company X”) as a defendant in a state court action.

Complainant claims that the Subject Judge issued the foregoing directive from the bench and that the hearing transcript has been altered such that the exchange in question does not appear in the record. Complainant also complains about other various decisions and procedural rulings.

Although he contends otherwise, it is evident that Complainant seeks to dispute the merits of the Subject Judge's 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, including a failure to recuse." 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 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.

To the extent that Complainant's allegations are not based solely on his disagreement with the merits of the Subject Judge's rulings, they are unsubstantiated. There is no evidence that a transcript of the hearing was tampered with or evidence of any other judicial misconduct. Indeed, Complainant filed a recusal motion seeking the

disqualification of the Subject Judge at approximately the same time that he filed his first judicial misconduct complaint (J.C. No. 03-22-90006).<sup>1</sup> Complainant’s unsuccessful recusal motion raised the same allegations that Complainant makes in the present administrative proceedings. After a hearing, the Subject Judge denied the recusal motion, stating that it “simply is not accurate” that the Court ever ordered that Company X “be prevented from being added, or removed for that matter” from the state litigation. Rather, the Subject Judge explained that she made clear on the record during a 2016 hearing that Complainant violated a stay by adding the debtor as a party. The Subject Judge added that she urged Complainant to obtain “competent counsel,” but he proceeded pro se. The transcript of the 2016 hearing has been reviewed, as well as the exhibits submitted by Complainant. The complaints 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, the complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and (iii).

s/ Michael A. Chagares  
Chief Judge

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<sup>1</sup> Complainant’s second complaint of judicial misconduct (J.C. No. 03-22-90026) supplemented the allegations in his first complaint and was filed shortly before the issuance of the Subject Judge’s ruling denying his recusal motion.

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ORDER

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(Filed: May 27, 2022)

PRESENT: CHAGARES, Chief Judge.

On the basis of the foregoing opinion entered on this date, it is ORDERED AND ADJUDGED that the written complaints brought pursuant to 28 U.S.C. § 351 are 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](http://www.ca3.uscourts.gov).

s/ Michael A. Chagares  
Chief Judge

Dated: May 27, 2022