

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-22-90041, 03-22-90042, 03-22-90069

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: August 15, 2022)

PRESENT: CHAGARES, 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 III”) and a former United States Magistrate Judge¹ (“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

¹ Although Subject Judge II is no longer a Magistrate Judge, Subject Judge II remains a federal judge. The Rules for Judicial-Conduct and Judicial-Disability Proceedings therefore apply. See Rule 1(b), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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 filed a pro se employment discrimination suit in 2013 that was assigned to Subject Judges I and II. In the course of the case, Complainant filed several letters containing abusive language and scurrilous allegations against Subject Judge II. As a result, Subject Judge I withdrew the referral to Subject Judge II and prohibited Complainant from filing additional letters. Subject Judge I ultimately granted summary judgment to the defendant and closed the case. The judgment was affirmed on appeal and the matter has been closed for several years.

Years later, Complainant filed a pro se civil rights action that was assigned to Subject Judge III. Subject Judge III dismissed the complaint without prejudice, granting Complainant leave to amend. A year passed and Complainant did not amend the complaint. The case was therefore closed. Complainant did not appeal.

This complaint of judicial misconduct alleges that the Subject Judges are participating in a conspiracy to deprive Complainant of his pension, public benefits, and his rights. Among other things, Complainant alleges that Subject Judge II “started screaming at [him] . . . and would not let [him] in her court any more . . . for no reason.” He further alleges that Subject Judge I “dropped [Complainant’s] case . . . to protect the defendant . . . for political and corrupt reasons.” Complainant also submitted a lengthy supplement containing many documents demonstrating his efforts to inform various authorities of his allegations.

The allegations of the complaint are merits-related to the extent they attempt to collaterally challenge Subject Judge I’s grant of summary judgment to the defendants and Subject Judge II’s dismissal order. Merits-related allegations 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). Such 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 non-merits-related allegations are unsupported. The sole transcript appearing on the docket of Complainant’s closed employment case does not support his allegation that Subject Judge II lost her temper or barred him from the courtroom. Similarly, Complainant has provided no evidence of any conspiracy involving the Subject Judges. These 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 foregoing, this complaint 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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ORDER

(Filed: August 15, 2022)

PRESENT: CHAGARES, 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/ Michael A. Chagares
Chief Judge

Dated: August 15, 2022