

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-22-90088

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: January 30, 2023)

PRESENT: CHAGARES, Chief Judge.

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

Complainant was a plaintiff in a civil action before the Subject Judge beginning in 2015. Complainant filed an interlocutory appeal in 2018 from an order dismissing certain claims. The appeal was dismissed for lack of jurisdiction over a non-final order. In 2019,

the Subject Judge dismissed the remaining claims and ordered the case closed. Complainant appealed several years after judgment was entered. The appeal was dismissed as untimely filed. Complainant has continued to file numerous submissions in the District Court matter, many of which request a settlement conference. The Subject Judge has denied Complainant's requests. The case remains closed.

In this complaint of judicial misconduct, Complainant alleges that the Subject Judge "never resolved all Plaintiff's claims against all parties in his case so that entry of a Final Judgment may be executed to resolve this matter in its finality." Complainant further alleges that the Subject Judge acted unethically by failing to sanction Complainant's attorney for "sabotaging [his] case." Complainant also claims, without elaboration, that the Subject Judge was involved in intimidation, bribery, misrepresentation, collusion, kidnapping, and falsification of court documents. In support of the complaint, Complainant appended copies of numerous court documents.

Complainant states that he is not intending to employ the judicial misconduct process to challenge the merits of the Subject Judge's rulings in his case. It nonetheless appears that he presented the majority of these claims to the Subject Judge in the course of his civil case, including his concerns about his attorney's actions and his claims of falsification of court documents. Accordingly, Complainant's allegations effectively present a collateral challenge to the Subject Judge's rulings. Such allegations do not constitute cognizable misconduct and are subject to dismissal. See 28 U.S.C. § 352(b)(1)(A)(ii); 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.”), Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant’s non-merits-related allegations are unsubstantiated. The record does not support claims of bribery, kidnapping, collusion, or other any other form of judicial misconduct. These allegations will be dismissed as 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)(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Finally, Complainant’s claim that the Subject Judge never issued a final judgment in his case is incorrect. The docket reflects entry of a final judgment on July 15, 2019. This claim is therefore 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: January 30, 2023)

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

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the Subject Judge dismissed the remaining claims and ordered the case closed. Complainant appealed several years after judgment was entered. The appeal was dismissed as untimely filed. Complainant has continued to file numerous submissions in the District Court matter, many of which request a settlement conference. The Subject Judge has denied Complainant's requests. The case remains closed.

In this complaint of judicial misconduct, Complainant alleges that the Subject Judge "never resolved all Plaintiff's claims against all parties in his case so that entry of a Final Judgment may be executed to resolve this matter in its finality." Complainant further alleges that the Subject Judge acted unethically by failing to sanction Complainant's attorney for "sabotaging [his] case." Complainant also claims, without elaboration, that the Subject Judge was involved in intimidation, bribery, misrepresentation, collusion, kidnapping, and falsification of court documents. In support of the complaint, Complainant appended copies of numerous court documents.

Complainant states that he is not intending to employ the judicial misconduct process to challenge the merits of the Subject Judge's rulings in his case. It nonetheless appears that he presented the majority of these claims to the Subject Judge in the course of his civil case, including his concerns about his attorney's actions and his claims of falsification of court documents. Accordingly, Complainant's allegations effectively present a collateral challenge to the Subject Judge's rulings. Such allegations do not constitute cognizable misconduct and are subject to dismissal. See 28 U.S.C. § 352(b)(1)(A)(ii); 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.”), Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant’s non-merits-related allegations are unsubstantiated. The record does not support claims of bribery, kidnapping, collusion, or other any other form of judicial misconduct. These allegations will be dismissed as 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)(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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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
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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:

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