

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-23-90028, 03-23-90029, 03-23-90030, 03-23-90032, and 03-23-90038

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: July 13, 2023)

PRESENT: CHAGARES, Chief Judge.

These complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against five United States District Judges (Subject Judges I, II, III, IV, and V). 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 is a plaintiff in multiple civil suits. Complainant alleges that the Subject Judges have breached their “duty of care” to uphold the Constitution, harmed Complainant financially, engaged in “tortious interference” of due process, and failed to

recognize the existence of fraud. He also alleges that the Subject Judges added language into statutes and rules and entered an “ex parte” order that terminated his suit administratively. In addition, Complainant complains about failures to recuse and denials of motions for reconsideration. Complainant views these decisions as support for his claims that the Subject Judges have engaged in judicial misconduct and have a mental disability. Finally, Complainant contends that Subject Judges IV and V should not have dismissed his lawsuits against the other Subject Judges on the grounds of immunity, among other claims.

It is apparent that Complainant is attempting to collaterally challenge official judicial actions in underlying civil proceedings. These 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). Complainant’s 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 Complainant alleges that the Subject Judges had an improper motive for any decisions, such as a putative bias against pro se litigants, the allegations are subject to dismissal as frivolous and unsupported by evidence that would raise an inference that misconduct occurred or a disability exists. 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant's only support for his allegations is his disagreement with the Subject Judges' decisions. Furthermore, the entry of an order on the docket administratively terminating a case is not an "ex parte" action. The underlying records have been reviewed and there is no evidence of judicial misconduct or disability.

Given the repetitive, frivolous, and merits-related nature of Complainant's current allegations, his attention is directed to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.¹ It is noted that Complainant has recently filed multiple additional complaints naming many of the same judges. J.C. Nos. 03-23-90042 through 03-23-90048.

¹ Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings, states:

(a) Abusive Complaints. 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.

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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ORDER

(Filed: July 13, 2023)

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.

s/ Michael A. Chagares
Chief Judge

Dated: July 13, 2023