

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-23-90042, 03-23-90043, 03-23-90044, 03-23-90045, 03-23-90046, 03-23-90047, 03-23-90048

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: August 14, 2023)

PRESENT: CHAGARES, Chief Judge.

The present complaints were filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against seven United States District Judges (Subject Judges I, II, III, IV, V, VI, and VII).¹ 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

¹ Complainant also sought to file a complaint against a Supreme Court Justice, but Supreme Court Justices are not subject to the Judicial Conduct and Disability Act. Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(i). Accordingly, the complaint was not accepted for filing as to this Justice and these allegations cannot be addressed in the present opinion.

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 unsuccessful civil suits. In addition, Complainant filed prior complaints of judicial misconduct regarding Subject Judges I, II, III, IV, and V that were dismissed as frivolous and merits related. See J.C. Nos. 03-23-90028, 03-23-90029, 03-23-90030, 03-23-90032, 03-23-90038. Complainant repeats many of the same allegations in the present complaints, including that the Subject Judges have breached their “duty of care” to uphold the Constitution and failed to recognize the existence of fraud, among other allegations. He also alleges that the Subject Judges added language into statutes and rules. Complainant again 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. Complainant adds allegations against two additional judges: Subject Judges VI and VII, including that Subject Judge VII suffers from a disability.

It is apparent that Complainant is again 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, or suffer from a disability, 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. As discussed above, such allegations are not cognizable. In any event, the underlying records have been reviewed and there is no evidence of judicial misconduct or disability.

While the present complaints were still pending, Complainant was cautioned pursuant to Rule 10 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings that continued filing of repetitive, harassing, or frivolous complaints may result in the imposition of restrictions pursuant to this provision.² J.C. Nos. 03-23-90028, 03-23-

² 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

90029, 03-23-90030, 03-23-90032, 03-23-90038. Given the repetitive, frivolous, and merits-related nature of Complainant's current and prior allegations, this caution is repeated here.

Based on the foregoing, the complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii).

s/ Michael A. Chagares
Chief Judge

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.

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ORDER

(Filed: August 14, 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)(i), (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 14, 2023