

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-23-90049, 03-23-90050, 03-23-90051

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: August 16, 2023)

PRESENT: CHAGARES, Chief Judge.

The present complaint was filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against three United States District Judges (Subject Judges I, II, and III). 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 is a plaintiff in multiple civil suits. In one case, Subject Judge I denied Complainant’s motion to proceed in forma pauperis without prejudice and directed the Clerk to close the matter. Three of Complainant’s other civil suits were dismissed by

Subject Judge II without prejudice for failure to state a claim or another deficiency.

Subject Judge II also expressed concern that Complainant's motions for in forma pauperis status contained contradictory statements but did not rule on the motions. Three other civil suits remain pending (one before Subject I, and two before Subject Judge III). In the present proceeding, Complainant alleges that the Subject Judges engaged in judicial misconduct because they did not respond to and/or failed to grant his requests for video conferences.¹ Complainant contends, therefore, that the Subject Judges violated the Americans with Disabilities Act because of "my speech and I need a lawyer." Complainant also appears to complain about the denials of his motions for the appointment of pro bono counsel.

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

¹ Complainant further requests a video conference in the present proceedings. Complainant's request is denied. Although I am sensitive to Complainant's claim that he is disabled, the underlying records in all of Complainant's cases have been reviewed, and as discussed below there is no basis for his allegations of judicial misconduct.

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 him, 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. The underlying records have been reviewed and there is no evidence of judicial misconduct. With respect to the cases dismissed by Subject Judges I and II, Complainant's motions for hearings or other accommodations were filed after Complainant's cases were dismissed without prejudice. Letters requesting video conferencing and accommodation under the Americans with Disability Act have been docketed in an additional matter pending before Subject Judge I and two matters pending before Subject Judge III. I express no opinion as to the merits of these requests in the underlying pending matters and am confident that Complainant's requests will be addressed expeditiously.

Based on the foregoing, the 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 16, 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

Dated: August 16, 2023