

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-23-90052, 03-23-90053, 03-23-90054, 03-23-90055

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: September 18, 2023)

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 II”) and two United States Circuit Judges (“Subject Judge III” and “Subject Judge IV”).¹ 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

¹ Complainant named retired and deceased judges in his complaint, but those allegations cannot be addressed in the present proceedings because the Judicial Conduct and Disability Act only applies to covered judges. Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(i). Complainant’s allegations against judges from jurisdictions outside the Third Circuit also will not be addressed here, as such allegations must be filed in a complaint with the circuit clerk in the jurisdiction where the subject judge serves. Rule 7(a)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. To the extent that Complainant has made allegations against non-judges, those claims are not cognizable in this proceeding. 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

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).

Many years ago, Complainant appealed to the Court of Appeals from the dismissal of his pro se civil matter. Subject Judges III and IV participated in deciding that appeal. In that case, Complainant succeeded in having the matter remanded to the District Court for further consideration. Here, Complainant named Subject Judges III and IV and referenced the appeal number in his section 351 complaint, but nowhere did he explain why he named them or allege a disability or wrongdoing. To the extent that Complainant challenges any aspect of that appeal decided long ago, the complaint is subject to dismissal because it relates to the merits of that decision. See 28 U.S.C. § 352(b)(1)(A)(ii); Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. In any event, after review, the record for that appeal reveals no basis for a claim of misconduct, and the complaint against Subject Judges III and IV will accordingly be dismissed as frivolous and unsupported by evidence that would raise an inference that misconduct has occurred or that a disability exists. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Similarly, Complainant named Subject Judge II in his filing, but he made no allegations against that subject judge. Complainant listed over fifty matters in his complaint, but it appears that Subject Judge II only presided over a motion within one of

the cases in 2010, while she was a Magistrate Judge. Complainant does not identify any instance of judicial misconduct associated with Subject Judge II's participation in that case and the record in that matter reveals no support for a claim of judicial misconduct. The complaint against Subject Judge II will be dismissed 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.

Finally, Complainant's only clear accusation against any of the subject judges is that Subject Judge I "stalked [him] in Bedford, PA." This bare statement is entirely lacking in factual support, however. He claims that "[a] Caucasian male identified her to me," but that assertion does not constitute evidence and only amounts to another unsupported statement in his complaint. Complainant's allegation against Subject Judge I is 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)(i), (ii), and (iii).

Michael A. Chagares
Chief Judge

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ORDER

(Filed: September 18, 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)(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.

Michael A. Chagares
Chief Judge

Dated: September 18, 2023