

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-23-90066

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IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

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

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MEMORANDUM OPINION

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(Filed: October 17, 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 (“Subject Judge”). For the reasons discussed below, the complaint will be dismissed.<sup>1</sup>

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).

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<sup>1</sup> To the extent Complainant seeks to complain about attorneys and/or witnesses in this proceeding, his allegations cannot be addressed because the Judicial Conduct and Disability Act only applies to federal judges. See Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(i).

Complainant complains that the Subject Judge “revoked” Complainant’s right to proceed pro se, removed filings from the public docket, exaggerated the number of motions and pages filed by Complainant, and failed to rule on valid motions and investigate a “conflict.” Additional allegations include conspiring with the federal government to convict Complainant. Complainant further alleges that the Subject Judge should recuse himself.

Complainant seeks to collaterally attack the Subject Judge’s decisions in his underlying criminal proceeding. Merits related allegations, however, are not cognizable under the Judicial Conduct and Disability Act. 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”); see also 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Accordingly, these allegations are subject to dismissal.

To the extent Complainant alleges that the Subject Judge had an improper motive for any decisions, his allegations are likewise 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. The underlying case record has been reviewed and there is no evidence of an improper motive, conspiracy, or other judicial misconduct. Id. Notably,

two panels of Third Circuit Judges recently denied Complainant's mandamus petitions raising many of the same issues as his present complaint of judicial misconduct.<sup>2</sup>

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

s/ Michael A. Chagares  
Chief Judge

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<sup>2</sup> One panel concluded that Complainant's "dissatisfaction with the District Judge overseeing his criminal case is based solely on his disagreement with the judge's decisions and his speculation that the judge harbors bias against him, which are not sufficient bases for mandamus relief." Another panel reasoned that, "Finally, to the extent that [Complainant] seeks recusal of the District Judge, he has not shown that a reasonable person would question the impartiality of the District Judge."

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ORDER

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(Filed: October 17, 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](http://www.ca3.uscourts.gov).

s/ Michael A. Chagares  
Chief Judge

Dated: October 17, 2023