

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-23-90071, 03-23-90072, 03-23-90073,
03-23-90074, 03-23-90075, 03-23-90076, 03-23-90077, 03-23-90078, 03-23-90079, 03-
23-90080, 03-23-90102

IN RE: COMPLAINTS OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: October 19, 2023)

PRESENT: JORDAN, Circuit Judge.¹

These complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against eight United States District Judges (Subject Judges I, II, III, IV, V, VI, VII, and IX), a United States Magistrate Judge (Subject Judge VIII), and a United States Circuit Judge (Subject Judge X).² For the reasons that follow, the complaints will be dismissed.

¹ Acting pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings (“If the chief judge is disqualified . . . those duties must be assigned to the most-senior active circuit judge not disqualified.”).

² Complainant also named a United States Supreme Court Justice, but Supreme Court Justices are not subject to the Judicial Conduct and Disability Act. See Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(i). Thus, the complaint was not accepted for filing as to the Justice and any allegations Complainant sought to make against him will not be considered here.

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 prolific federal courts litigant and judicial misconduct complainant. Complainant’s prior 2023 judicial misconduct complaints, which were filed against many of the same judges named here (Subject Judges I, II, III, IV, V, and VI), were dismissed as frivolous, unsupported by evidence sufficient to raise an inference of misconduct, non-cognizable, and merits related. See J.C. Nos. 03-23-90028, 03-23-90029, 03-23-90030, 03-23-90032, 03-23-90038, 03-23-90042, 03-23-90043, 03-23-90044, 03-23-90045, 03-23-90046, 03-23-90047, 03-23-90048. The present misconduct proceedings address two new complaints naming multiple judges, including four additional Subject Judges who were not previously named, Subject Judges VII, VIII, IX, and X.³

With respect to the first complaint here, Complainant echoes arguments he previously raised in the misconduct proceedings cited above: that “the judges” in his cases assumed legislative powers by ruling that student loan debts are nondischargeable in

³ The first judicial misconduct complaint of this proceeding, filed against Subject Judges I through X, is docketed at J.C. Nos. 03-23-90071 through 03-23-90080. The second complaint, filed against Subject Judge VII, is docketed at J.C. No. 03-23-90102.

bankruptcy proceedings pursuant to 11 U.S.C. § 523(a)(8), and that they “created home detention . . . [that] could have been imprisonment.” He further alleges that the judges censored “evidence that proves innocence,” case law, and Complainant’s writing. (Complainant fails to explain what role Subject Judge X, a Circuit Judge, played in the allegations, which are all apparently related to his District Court cases.)⁴ However, Complainant’s allegations constitute merits-based challenges because he seeks to collaterally challenge official judicial actions in his civil and criminal proceedings. As such, the claims are not cognizable under the Judicial Conduct and Disability Act and will be dismissed. 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. Further, to the extent that Complainant makes broad statements that the Subject Judges were “biased” in the government’s favor, the underlying records in this case have been reviewed and none reveals any such bias. These contentions are thus subject to dismissal as frivolous and unsupported by evidence raising an inference that misconduct has occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Turning to Complainant’s second judicial misconduct complaint in these proceedings, he claims that Subject Judge VII “irreparably destroyed” his

⁴ To the extent Complainant seeks to attack Subject Judge X’s dismissal of his prior complaints of judicial misconduct, his allegations are subject to dismissal as merits-related. Commentary on Rule 4, Rules for Judicial-Conduct and Judicial-Disability Proceedings (a complaint challenging the correctness of a “determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related”).

Constitutionally-protected rights during a recent hearing because Subject Judge VII did not allow him to proceed pro se and denied a motion for recusal. Complainant also questions Subject Judge VII's impartiality. In 2021, Complainant pleaded guilty to making a judge's restricted personal information publicly available, and a different District Judge imposed an agreed-upon sentence, including a term of supervised release. Subject Judge VII was reassigned to that criminal case in May 2023. After the Probation Office sought to modify Complainant's conditions of release, Subject Judge VII appointed new counsel for Complainant, but Complainant told counsel he did not want legal representation and counsel accordingly sought to withdraw. Complainant also filed his fifth motion to recuse Subject Judge VII. Considering these matters, Subject Judge VII convened a status hearing, at which Complainant and the other parties appeared by video. After the hearing, Subject Judge VII entered an order specifying that appointed counsel would continue to represent Complainant, the motion to recuse was denied, and the parties would jointly advise the court on how to proceed.

Complainant's arguments concerning Subject Judge VII's appointment of counsel and denial of recusal are purely merits-related contentions and not cognizable. See 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 In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008) ("The Act is intended to further 'the effective and expeditious

administration of the business of the courts.’ It would be entirely contrary to that purpose to use a misconduct proceeding to obtain redress for—or even criticism of—the merits of a decision with which a litigant or misconduct complainant disagrees.’”) These merits-related allegations are thus 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. Complainant also questions Subject Judge VII’s impartiality, but this bare allegation has no support in the record. This claim will be dismissed as frivolous and unsubstantiated. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For the foregoing reasons, the complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii). As noted above, Complainant’s prior complaints were dismissed as merits-related, non-cognizable, unsubstantiated, and frivolous. He was strongly cautioned that continued filing of repetitive, harassing, or frivolous misconduct complaints could result in the imposition of restrictions pursuant to Rule 10 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. See J.C. Nos. 03-23-90028, 03-23-90042. Complainant nonetheless filed these additional frivolous, unsupported, and non-cognizable complaints. Accordingly, a copy of this opinion will be transmitted to the

Judicial Council for consideration of the issuance of an order to show cause why
Complainant should not be restricted from filing further complaints pursuant to Rule
10(a).

Kent A. Jordan
Circuit Judge

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ORDER

(Filed: October 19, 2023)

PRESENT: JORDAN, 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.

Kent A. Jordan
Circuit Judge

Dated: October 19, 2023