

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-23-90085

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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: November 16, 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”).<sup>1</sup> For the reasons that follow, 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,

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<sup>1</sup> Complainant also named federal judges from jurisdictions outside the Third Circuit, but the complaint was not accepted for filing with respect to those judges. Those allegations will not be addressed here. See Rule 7(a)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings (allegations must be filed in a complaint with the circuit clerk in the jurisdiction where the subject judge serves). She also named court employees and attorneys representing opposing parties, but neither are federal judges and thus they are not subject to the Judicial Conduct and Disability Act. See 28 U.S.C. § 351(d); Rule 1(b), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Accordingly, claims asserted against those parties will not be addressed in the opinion. 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

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 filed a lawsuit in federal court related to her former employment. In September 2022, the case was reassigned to the Subject Judge. In October 2022, the Subject Judge ordered that the case be transferred to a different District Court located in another Circuit.<sup>2</sup> Despite the transfer of her case out of this Circuit, Complainant continued to file motions and letters in the originating District Court, including one for “judicial disclosure and disqualification” of the Subject Judge. The Subject Judge denied the motions because the matter had been transferred, and he ordered that further filings would not be considered in the closed case.

Complainant submitted an earlier judicial misconduct complaint (J.C. No. 03-23-90024), naming the same Subject Judge and concerning the same underlying pro se lawsuit. That judicial misconduct complaint was dismissed.<sup>3</sup> Complainant filed this misconduct complaint shortly after that. While the latest misconduct complaint is disjointed and difficult to follow, it appears that Complainant believes the Subject Judge

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<sup>2</sup> The receiving District Court transferred the case to another Division within that District, where it remained until the complaint was dismissed without prejudice in August 2023.

<sup>3</sup> Among her claims in that complaint, Complainant accused the Subject Judge of bias and embezzlement and challenged the judge’s rulings regarding recusal and venue. The complaint was dismissed because she named non-cognizable parties under the Act and her claims were merits-related, frivolous, and unsubstantiated. See 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii).

engaged in improper “ex parte” communications with the judges and/or employees of the courts where her case was transferred “for the purpose[ ] ... [of] altering, deleting, destroying ... files,” and that this was shown by the processing of defense counsels’ applications for pro hac vice admission by the transferee court. However, to the extent that this claim calls into question the correctness of the Subject Judge’s purported actions or inactions with respect to the transfer or subsequent events, it is merits related. Merits-related allegations do not constitute cognizable misconduct. 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.”). The allegation is otherwise subject to dismissal because it is 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. Complainant argues that court dockets show improper post-transfer communications by the Subject Judge and that documents she filed were altered or deleted. However, the underlying record has been reviewed, and the sequencing of the docket entries does not demonstrate impropriety—or even communication with the

transferee court—by the Subject Judge. None of the documents provided by Complainant alters those conclusions. The docket also fails to reflect any “alter[ed]” or “destroy[ed]” documents. Accordingly, these claims will be dismissed under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant’s remaining discernable claims are also subject to dismissal as frivolous and unsupported by any evidence that would raise an inference that misconduct occurred. See § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant asserts that the Subject Judge should have entered an “immediate order suspending” a defense attorney for committing a “serious crime,” but neither Complainant’s submissions nor the underlying record reveal “a certified copy of a judgment of conviction” as she alleges. She further accuses the Subject Judge of engaging in an “exchange” of a “substantial sum financial interest” with transferee judges and defendants’ counsel. This speculative claim has no support in her submissions or the record. These contentions will be dismissed under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant has included a request for mandamus relief within her judicial misconduct complaint. That request cannot be adjudicated within the confidential judicial misconduct proceedings provided under 28 U.S.C. § 351. Should she wish to proceed with such a request, Complainant must file an original action with the Clerk of Court and comply with the prescribed procedures.

Finally, given the repetitive, frivolous, and merits-related nature of Complainant's current allegations, her attention is directed to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.<sup>4</sup> It is noted that Complainant has very recently filed an additional complaint naming the same judge and concerning the same underlying matter. J.C. No. 03-23-90024.

For the foregoing reasons, the 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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<sup>4</sup> Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings, states:

(a) **Abusive Complaints.** 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 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

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(Filed: November 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)(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).

Michael A. Chagares  
Chief Judge

Dated: November 16, 2023