

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-23-90139

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: March 6, 2024)

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 Magistrate Judge (Subject Judge). For the following reasons, 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, a state inmate, filed a federal petition for habeas corpus relief in June 2023. The matter was referred to the Subject Judge, who ordered the state respondents to answer the petition and requested that the state court record be filed. Before an answer or

the record were filed, however, Complainant filed a motion for summary judgment and a motion for judgment of acquittal. Shortly after filing the latter motion, Complainant submitted this judicial misconduct complaint, complaining that the Subject Judge had not ruled on his motions.

Complainant’s allegations of delay are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii) because they are merits-related and not cognizable. Under the Act, cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” See Rule 4(b)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see also Commentary to Rule 4(b)(2) (“[A] complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge . . . assigning a low priority to deciding the particular case.”). While Complainant makes accusations that the Subject Judge has improper motives in this case—including alleged involvement in a fraud ring that has filed lawsuits in Complainant’s name without his knowledge—the claims are utterly baseless and without evidentiary support.¹ Moreover, the ruling on the motions has not been objectively delayed. His motions for summary judgment and for judgment of acquittal were filed only 38 days and 14 days, respectively,

¹ To the extent that Complainant alleges that other officials are involved in the fraud ring, those allegations are not cognizable here because only covered federal judges are subject to the Act. See Rule 1(b), Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(i). Accordingly, those allegations will not be addressed in this opinion.

before the date of his judicial misconduct complaint; further, the respondents' answer was filed in January 2024 and the state court record was received by the District Court on February 29, 2024. Complainant has not experienced a delay in the adjudication of the motions. The allegations will thus also be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) as frivolous and unsupported by any evidence that would raise an inference that misconduct occurred.

Complainant submitted several documents, which were not sworn under the penalty of perjury and did not comply with Rule 6 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. The submissions have nonetheless been reviewed under Rule 5 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Considered under the provisions of that Rule, no reasonable grounds for inquiry into whether the Subject Judge has engaged in misconduct have been identified in those submissions, and there is no probable cause to believe that misconduct has occurred. See Rule 5(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Accordingly, the 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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ORDER

(Filed: March 6, 2024)

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.

s/ Michael A. Chagares
Chief Judge

Dated: March 6, 2024