

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. Nos. 03-24-90007, 03-24-90008, 03-24-90009

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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: March 22, 2024)

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 Judges I and III) and a United States Magistrate Judge (Subject Judge II). 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 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 state inmate who filed a federal habeas petition in 2020. Because he had an ongoing post-conviction proceeding pending in state court, the District Court

stayed the habeas petition.<sup>1</sup> The stay was lifted in November 2023 after state proceedings concluded, and Complainant filed an amended habeas petition. Among the many motions he filed after that, he submitted motions seeking appointment of counsel, a status hearing, and an order that the prison superintendent escort him to law library every day for two hours. Subject Judge II denied those motions in an order, and Subject Judge I denied Complainant's appeal of that ruling. In January 2024, Complainant submitted a judicial misconduct complaint, in which he complained that Subject Judges I and II made various substantive and procedural errors in their rulings, accused Subject Judge I of collusion to deprive Complainant of his rights, and asked that Subject Judges I and II be recused by Subject Judge III.<sup>2</sup>

Complainant's claims are largely merits-related and not cognizable under the Judicial Conduct and Disability Act. See 28 U.S.C. § 352(b)(1)(A)(ii) (providing for dismissal where the complaint is "directly related to the merits of a decision or procedural ruling"); see also Rules 4(b)(1), 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant's various allegations concerning Subject Judges I

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<sup>1</sup> Complainant filed a prior misconduct complaint against Subject Judge II, alleging in part that his federal habeas petition had been "delayed" because it was stayed pending the conclusion of state post-conviction proceedings. See J.C. No. 03-21-90010. That complaint was dismissed as merits-based and frivolous.

<sup>2</sup> To the extent that Complainant argues that he has suffered from "inordinate delays without required sentence order by [the state court]" and otherwise complains about his criminal proceedings in the state court, those claims will not be addressed in this opinion because they are not cognizable. Administrative proceedings under the Judicial Conduct and Disability Act are limited to addressing complaints of misconduct by federal judges covered under the Act. See 28 U.S.C. § 352(b)(1)(A)(i); Rule 1(b), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

and II question the correctness of substantive and procedural rulings, and, accordingly, they are not cognizable here. Likewise, the only apparent “claim” against Subject Judge III in the judicial misconduct complaint relates to Complainant’s request for Subject Judges I and II to be recused, and, as such, it is non-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.”). To the extent that Complainant is attempting to obtain relief from rulings in the District Court, administrative proceedings under 28 U.S.C. § 351 are not the appropriate forum to seek such relief. See In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008). All of Complainant’s non-cognizable claims will be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant alleges that Subject Judge I exhibited “bad faith” and colluded with the state court to deprive him of rights. There is no support for these contentions, however. The record has been reviewed, and there is no evidence of any judicial misconduct. The allegations will be dismissed as frivolous and unsupported by evidence that would raise 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.

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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ORDER

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(Filed: March 22, 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](http://www.ca3.uscourts.gov).

s/ Michael A. Chagares  
Chief Judge

Dated: March 22, 2024