

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90013, 03-24-90014, 03-24-90015,
03-24-90016, 03-24-90026, 03-24-90027

IN RE: COMPLAINTS OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: March 19, 2024)

PRESENT: CHAGARES, Chief Judge.

These complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against two United States District Judges (Subject Judges I and VI) and four United States Magistrate Judges (Subject Judges II, III, IV, and V). For the reasons discussed below, the complaints 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 has filed multiple pro se civil lawsuits in the District Court related to an allegedly false arrest in 2014 and imposition of sexual offender registration requirements. Subject Judge I was previously assigned to many of Complainant's cases, and some of the matters were referred to Subject Judges II and III. Complainant is presently in custody pending trial on charges that he sent documents containing threats of violence against Subject Judges I, II, and III in 2023. That 2023 criminal matter was assigned for a brief time to Subject Judge IV, until it was reassigned to Subject Judge VI and referred to Subject Judge V. After a hearing, Subject Judge V ordered that Complainant be detained, and later denied Complainant's motion to revoke detention after an additional hearing.¹

In his judicial misconduct complaint docketed at J.C. Nos. 03-24-90013, 03-24-90014, 03-24-90015, and 03-24-90016, Complainant argues that the 2023 charges involving threats against judges are based on falsehoods, that his civil lawsuits concerning the allegedly false arrest in 2014 had merit, that Subject Judge IV signed a faulty probable cause affidavit supporting Complainant's arrest on the 2023 charges, and that all his civil matters and appeals have been wrongly decided. These claims reflect, however, that Complainant seeks to challenge the validity of the Subject Judges' rulings. Such allegations are merits-related and do not constitute cognizable misconduct in judicial misconduct proceedings. See Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings ("Cognizable misconduct does not include an allegation that calls

¹ I express no opinion as to the merits of the criminal proceeding currently pending against Complainant.

into question the correctness of a judge's ruling, including a failure to recuse.”). “The misconduct procedure [under the Judicial Conduct and Disability Act] is not designed as a substitute for, or supplement to, appeals or motions for reconsideration. Nor is it designed to provide an avenue for collateral attacks or other challenges to judges' rulings.” In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008). Complainant's 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.

The allegations in Complainant's misconduct complaint at J.C. Nos. 03-24-90026 and 03-24-90027 are likewise merits-related and subject to dismissal. 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. He repeats many of the allegations asserted in his prior complaint, while also asserting that Subject Judge V deprived him of rights at his detention hearings and that Subject Judge VI should have dismissed the criminal charges against Complainant. These claims are not cognizable and will be dismissed. Id.

To the extent that any of Complainant's contentions in the misconduct complaints do not qualify as merits-based challenges, the allegations are subject to dismissal 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. He claims that Subject Judge V colluded with his own counsel to deny bail, yet he has provided no evidence of improper conduct

by Subject Judge V, or by any of the other Subject Judges. The record has been reviewed and does not provide any support for his remaining claims.² Accordingly, those claims will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant has separately submitted a substantial number of documents in addition to his misconduct complaints; he apparently purports to have them considered as supplements and/or additional complaints about the Subject Judges. These documents were not submitted under the penalty of perjury, and they accordingly do not qualify as formal complaints of judicial misconduct pursuant to 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. The undersigned declines to identify a complaint based on these unsworn submissions because they provide no reasonable grounds for inquiry into whether the judges have engaged in misconduct, and there is no probable cause to believe that misconduct has occurred. See Rule 5(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.³

² Complainant alleges misconduct by police, attorneys, and other officials who do not serve as federal judges within this Circuit, but the claims are not cognizable in these administrative proceedings because the parties are not covered under the Act. See 28 U.S.C. § 352(b)(1)(A)(i). Those claims will not be addressed here.

³ Many of the unsworn allegations are duplicative of those subject to dismissal in the Rule 6 judicial misconduct complaints and others previously dismissed in Complainant's prior judicial misconduct proceedings (docketed at J.C. Nos. 03-22-90082, 03-22-90083, 03-22-90084) naming Subject Judges I, II, and III.

Based on the foregoing, these complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii). It is noted that Complainant previously filed a judicial misconduct complaint against Subject Judges I, II, and III, which was dismissed as merits-based, unsupported by evidence raising an inference of misconduct, and frivolous. See J.C. Nos. 03-22-90082, 03-22-90083, 03-22-90084. Complainant appears to be engaged in abuse of the complaint procedure. He therefore is strongly cautioned pursuant to Rule 10 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.⁴ Continued filing of repetitive, harassing, or frivolous complaints, or other abuse of the complaint procedure may result in the imposition of restrictions pursuant to this provision.

s/ Michael A. Chagares
Chief Judge

⁴ Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides:

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

(Filed: March 19, 2024)

PRESENT: CHAGARES, 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.

s/ Michael A. Chagares

Chief Judge

Dated: March 19, 2024