

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90017, 03-24-90018, 03-24-90019

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: March 25, 2024)

PRESENT: CHAGARES, Chief Judge.

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against three United States District Judges (“Subject Judge I,” “Subject Judge II,” and “Subject Judge III”).¹ 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

¹ Complainant presents allegations concerning a federal judge who sits in another Circuit. This complaint was not docketed as to the out-of-Circuit judge because misconduct complaints must be filed in the jurisdiction in which the subject judge holds office. See Rule 7(a)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The allegations against that judge will not be considered in this opinion.

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 seven pro se civil complaints last year, which were assigned to Subject Judges I, II, and III. Subject Judge I entered orders dismissing two actions for failure to state a claim. Subject Judge II entered orders dismissing three other actions for the same reason. Complainant did not appeal any of the judgments. The two cases before Subject Judge III remain pending. In all seven matters, Complainant submitted requests for video conferencing in order to accommodate his disability. None of the requests were granted.

Complainant alleges in this complaint of judicial misconduct that the Subject Judges did not grant his disability accommodation requests. He contends that he is entitled to a video conference to talk about his civil complaints and that the Subject Judges' failure to accommodate him violates the Americans with Disabilities Act.²

Decisions concerning Complainant's disability accommodation requests are official judicial actions. Efforts to collaterally challenge those official judicial actions are merits related and therefore do not constitute cognizable misconduct. 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

² Complainant likewise has requested a video conference in the present judicial misconduct proceeding. The request is denied. I am sensitive to the claim that Complainant suffers from a disability; a video conference is unnecessary, however, because the underlying records in Complainant's cases have been carefully reviewed and, as discussed herein, there is no basis for any of the allegations of misconduct that have been presented.

a failure to recuse.”). Merits-related allegations are 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 records in Complainant’s seven civil proceedings have been examined and there is no evidence to substantiate any claims that the three Subject Judges have engaged in any form of judicial misconduct. Complainant’s allegations, to the extent they are cognizable, are thus subject to dismissal as unsupported by evidence that would raise an inference that misconduct has occurred. 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(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)(ii) and (iii). This is the second substantively identical complaint that Complainant has filed against the three Subject Judges. See J.C. Nos. 03-23-90049–51. The prior complaint also was dismissed as merits-related, unsupported, and frivolous. Complainant is 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.³

³ 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

s/ Michael A. Chagares
Chief Judge

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 25, 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)(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 25, 2024