

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-24-90020

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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: April 10, 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 District Judge (“Subject Judge”).<sup>1</sup> 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

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<sup>1</sup> Complainant presents allegations concerning the conduct of prosecuting attorneys, witnesses, government agencies, defense counsel, and others. Individuals who are not federal judges are not covered by the Judicial Conduct and Disability Act, so allegations against them are not cognizable in this proceeding. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i); Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings. The allegations concerning non-covered individuals will not be addressed.

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 wealthy businessman, was indicted for money laundering, wire fraud, and related crimes and was tried civilly in a parallel securities fraud action.<sup>2</sup> Both matters were assigned to the Subject Judge. The six-day criminal jury trial yielded a guilty verdict on several counts, and the Subject Judge sentenced Complainant to a lengthy term of imprisonment and ordered him to pay substantial restitution.

Complainant's appeal from the criminal judgment is pending.<sup>3</sup> In the parallel securities fraud action, the Subject granted summary judgment to the plaintiff and awarded disgorgement of ill-gotten profits, to be partially offset by the criminal restitution order.

Complainant claims in this lengthy and detailed complaint of judicial misconduct that the Subject Judge is a "biased and dishonest judge" who participated in a conspiracy against him and engaged in at least twenty-four acts of "gross misconduct," including "actual federal crimes." Complainant alleges, among many other things, that the Subject Judge ruled on his cases despite the absence of jurisdiction, failed to dismiss the purportedly defective criminal indictment, held a show cause hearing without providing Complainant adequate notice, issued an unlawful temporary restraining order, violated Complainant's due process rights, improperly declined to recuse, denied Complainant access to funds to pay for counsel of Complainant's choice, "refused to understand"

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<sup>2</sup> Complainant is also a defendant in a criminal tax evasion case before a judge who is not named in this complaint of judicial misconduct.

<sup>3</sup> Complainant filed a habeas petition, which the Subject Judge denied as not filed on the proper form.

Complainant's legal arguments, and imposed a criminal sentence despite the government's purported failure to put forth proof that Complainant engaged in fraud or harmed any victim. Complainant additionally alleges that the Subject Judge treated him in an offensive and demeaning manner during several hearings, criminally "extort[ed]" money from Complainant by requiring him to turn over a foreign brokerage account in exchange for allowing him to access money to hire defense counsel, purposefully "ignored" pending motions in order to prevent Complainant from obtaining a final judgment he could appeal, and falsified hearing transcripts by "remov[ing]" sections that were "incriminating" to the Subject Judge.<sup>4</sup>

Complainant contends that he is not attempting to challenge the substance of any judicial rulings. It is nevertheless apparent that the vast majority of Complainant's allegations reflect his disagreement with the merits of the decisions rendered in his criminal and civil cases. Complainant takes issue with, for instance, the Subject Judge's failure to recuse, rulings on the release of frozen assets, jurisdictional determinations, denial of bail pending appeal, and myriad other decisions rendered during the course of the two parallel proceedings. Additionally, by vigorously and repeatedly alleging that he is innocent of any crimes and did not engage in securities fraud, Complainant clearly disputes the judgments rendered in his cases. All such allegations are merits related and do not constitute cognizable misconduct. Rule 4(b)(1), Rules for Judicial-Conduct and

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<sup>4</sup> The complaint of judicial misconduct spans fifty-two single-spaced typewritten pages, plus exhibits. For practical reasons, this brief summary does not discuss every allegation of the complaint. All allegations of judicial misconduct have, however, been fully considered.

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.”).

Complainant raised many of his misconduct allegations in his motion to recuse the Subject Judge, which the Subject Judge denied. Denial of a recusal motion is not cognizable misconduct. Id. Indeed, it is noteworthy that the Court of Appeals considered the recusal issue in the context of a mandamus petition filed by Complainant and concluded there was “no evidence of bias or any other reason why the judge should recuse himself from [Complainant’s] case.” That ruling is not subject to review in this administrative proceeding. “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 merits-related 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.

A careful review of the records in Complainant’s proceedings, including the transcripts Complainant has identified, does not substantiate any of Complainant’s non-merits-related claims, including bias, hostile treatment, falsification of court documents, extortion, participation in a conspiracy, or any other form of judicial misconduct. All such allegations are subject to dismissal as frivolous and 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)(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: April 10, 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: April 10, 2024