

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-24-90021

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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 9, 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”). 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 was a pro se plaintiff in two civil rights actions concerning buildings that once belonged to Complainant; one was sold and the other was demolished. The Subject Judge dismissed the first complaint as barred by res judicata and the Rooker-

Feldman doctrine and for failure to state a claim. Complainant appealed, but the appeal was dismissed for lack of appellate jurisdiction. The Subject Judge dismissed the second complaint as well, but the Court of Appeals vacated the dismissal of two claims and remanded them to the District Court. The Subject Judge ultimately granted summary judgment to the defendants on those claims. Complainant's appeal of the judgment remains pending.

Complainant alleges in this complaint of judicial misconduct that the Subject Judge unfairly entered judgment for the defendants in both cases "without due process" and "without referencing all the evidences [Complainant] had submitted to the court for consideration." Complainant claims that he was entitled to a hearing and a jury trial, which he did not receive, and also that the Subject Judge should have recused himself. Complainant further claims that the Subject Judge is biased against him, speculating that this might be because the Subject Judge attended the same college as a state court judge overseeing a related state court matter, or possibly because Complainant is pro se.

Complainant is attempting to challenge several judicial rulings, including the decision not to hold a hearing or jury trial, the denial of a recusal motion, and the entry of judgment in the two civil actions. All such allegations are merits related and 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 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). Such 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 record does not substantiate Complainant's claim that the Subject Judge is biased against him. Even accepting the unsupported allegation that the Subject Judge attended the same college as a state court judge who oversaw another of Complainant's cases, this does not reasonably establish a basis for concluding that the Subject Judge harbors a bias against Complainant. Complainant's belief that the Subject Judge might be biased against pro se litigants is similarly unsupported by any evidence. These allegations are thus 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)(ii) and (iii).

s/ Michael A. Chagares  
Chief Judge

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ORDER

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(Filed: April 9, 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](http://www.ca3.uscourts.gov).

s/ Michael A. Chagares  
Chief Judge

Dated: April 9, 2024