

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90023, 03-24-90024, 03-24-90028

IN RE: COMPLAINTS OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: April 8, 2024)

PRESENT: CHAGARES, Chief Judge.

These complaints are 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 filed a pro se civil rights complaint that was assigned to the Subject Judge. The Subject Judge directed Complainant to serve the defendant. Two months

later, the Subject Judge concluded that Complainant failed to effect proper service and dismissed the complaint without prejudice.

Complainant then filed three separate complaints of judicial misconduct within a few weeks of each other, all concerning his civil action and all repeating essentially the same allegations. In them, Complainant contends that the Subject Judge violated his constitutional rights by declining to hold a hearing and by failing to enter a default judgment in his favor. Complainant further contends that he served the defendant and that the Subject Judge “committed treason” by “unlawfully” dismissing his case rather than awarding him relief. Complainant alleges, among other things, that he “wasn’t granted a fair hearing by common law,” that he “followed fed ru[1]es of civil procedure” but is “currently being denied justice,” and that the Subject Judge “completely ignored” the facts he presented. Complainant questions the validity of the judicial system, claims there has been “no judicial courts in America” since 1789, and states that he will proceed to the United States Supreme Court and will “stay quiet” only if the courts “do as agreed.”

Many of Complainant’s allegations call into question the Subject Judge’s decision to dismiss his civil action without prejudice for failure to serve the defendant rather than grant him a default judgment or a trial. These 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.”). Indeed, Complainant has stated that he intends to seek review of the Subject Judge’s rulings in the

United States Supreme Court. This administrative forum does not provide an alternative avenue for substantive review of those determinations. “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 therefore 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.

Complainant’s remaining allegations are entirely baseless. A careful review of the record reveals no evidence that the Subject Judge committed treason, ignored evidence, acted unlawfully, or otherwise engaged in any form of judicial misconduct. The claims 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, the complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and (iii). As discussed, Complainant filed three substantively similar complaints naming the Subject Judge in a short span of time, and all three complaints are merits-related, unsubstantiated, and frivolous. Complainant is cautioned that continued filing of repetitive, harassing, or frivolous misconduct complaints may result in the imposition of restrictions pursuant to Rule 10 of the Rules for Judicial-Conduct and

Judicial-Disability Proceedings.¹ In addition, it is noted that some of Complainant's allegations contain implied threats. Complainant is advised that the judiciary, and the undersigned, take matters of judicial security extremely seriously. When necessary, appropriate authorities will be informed of violent or threatening language to ensure the safety and protection of all.

s/ Michael A. Chagares
Chief Judge

¹ 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: April 8, 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)(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: April 8, 2024