

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-24-90048

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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: June 11, 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 respondent in a civil action initiated in 2022 by the District Court. The proceeding was opened to adjudicate contempt proceedings arising from the violation of a pre-filing injunction entered in a separate case. The Subject Judge

initially held Complainant in contempt but, after reassessing the injunction order, vacated the contempt order. The matter inadvertently remained open until 2024, when the Subject Judge issued a Notice of Call for Dismissal in order to formally close the proceeding. Complainant responded by submitting a letter concerning a wish to file a complaint about an unrelated property foreclosure and a motion to proceed in forma pauperis (“IFP”). The Subject Judge held a brief hearing and, shortly thereafter, entered orders striking the letter from the record, closing the contempt proceeding, and declining to consider the IFP motion.

This complaint of judicial misconduct alleges that the Subject Judge “admitted he was wrong and overturned his ruling . . . but refuse[d] to turn over the transcript of the hearing.” It does not appear from the record that Complainant filed a formal transcript request. Even if he did, a decision rendered on such a request would be merits-related and therefore does not, without more, constitute cognizable misconduct. 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 has not clearly identified any form of judicial misconduct arising from a decision not to provide a transcript from a hearing in a matter that was resolved in Complainant’s favor. A careful review of the record reveals no basis for a determination that judicial misconduct has occurred. Any remaining cognizable allegations of misconduct are therefore 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). Complainant filed two prior misconduct complaints naming the Subject Judge, which also were dismissed as merits-related, unsubstantiated, and frivolous. See J.C. Nos. 03-17-90067, 03-17-90105. Complainant is cautioned that filing 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.<sup>1</sup>

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s/ Michael A. Chagares  
Chief Judge

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<sup>1</sup> 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

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(Filed: June 11, 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: June 11, 2024