

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90072, 03-24-90095, 03-24-90110,
03-24-90111, 03-24-90115

IN RE: COMPLAINTS OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: November 6, 2024)

PRESENT: CHAGARES, Chief Judge.

These five complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against two United States District Judges (“Subject Judge I” and “Subject Judge II”). For the reasons discussed below, the complaints 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, a frequent pro se litigant, filed three pro se civil actions relevant to this proceeding. He initiated the first matter in 2019, claiming he experienced kidnapping

and mistreatment during a period in 2008 in which he was detained in a correctional center, as well as broader claims of racial discrimination and conspiracy. Subject Judge I dismissed the complaint as frivolous and for failure to state a claim but granted leave to file an amended complaint. Complainant responded with numerous filings, but none stated a plausible claim. Subject Judge I eventually entered an injunction against further post-judgment filings apart from a notice of appeal. Complainant did not appeal but did move for Subject Judge I's recusal. Subject Judge I denied the motion and the matter has been closed since 2021.

Complainant filed the second complaint in 2024, claiming that he was prevented from exercising a power of attorney. The matter was assigned to Subject Judge I. Complainant moved for Subject Judge I's recusal, and Subject Judge I denied the motion. Subject Judge I dismissed several claims, except for claims under the First Amendment. The defendants in that matter moved to dismiss the First Amendment claims. Subject Judge I granted the motion, dismissed the remaining claims, and closed the case.

Complainant's third complaint named Subject Judge I as a defendant. In it, Complainant claimed that Subject Judge I mishandled the two previously described matters. The matter was assigned to Subject Judge II. Subject Judge II dismissed the complaint with prejudice on grounds of absolute judicial immunity. Complainant sought reconsideration, which Subject Judge II denied.

Complainant has filed these five complaints of judicial misconduct in quick succession, beginning in June 2024. The first three complaints name Subject Judge I, while the fourth and fifth complaints name Subject Judge II.¹

Many of Complainant's allegations call into question rulings issued by the Subject Judges in the course of Complainant's three civil proceedings. Complainant alleges, for instance, that Subject Judge I erred in dismissing the first matter because he "out right lied [when he] said I failed to state a claim." Complainant further alleges that Subject Judge I violated the Federal Rules of Evidence, erroneously concluded that "kidnapping is legal for the Commonwealth," and "violat[ed Complainant's] procedural due process" by presiding over the second proceeding because "he's a witness" in that matter.

Complainant similarly alleges that Subject Judge II "did the same thing [Subject Judge I] did," including "ignor[ing]" Complainant's facts and objections, erroneously concluding that "a judge can't override another judge's order," and wrongfully dismissing Complainant's third case.

¹ Complainant's allegations include references to actions by state court judges. State court judges are not federal judges and therefore are not subject to the Judicial Conduct and Disability Act. See 28 U.S.C. § 351(d); Rule 1(b), Rules for Judicial-Conduct and Judicial-Disability Proceedings. To the extent the complaint implies misconduct on the part of state court judges, such allegations will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i). Additionally, the allegations refer to actions by federal judges who are not identified as Subject Judges of these misconduct complaints. Upon review, such allegations do not provide "reasonable grounds for inquiry" into the existence of judicial misconduct on the part of any federal judge. Accordingly, no complaints will be identified. See Rule 5(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

All of 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, several of the misconduct complaints append motions, objections, and other documents that Complainant filed in his civil proceedings and that were considered by the Subject Judges on the merits. This administrative proceeding does not provide a second opportunity for review of the merits of the submissions. “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 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, non-merits-related allegations lack substantiation. Complainant claims, for instance, that Subject Judge I “is a racist liar” who “den[ies] African Americans access to the courts” and who has participated in a conspiracy against Complainant.” Complainant also claims that Subject Judge II “lied.” A careful review of the record reveals no evidence that the Subject Judges lied, conspired against Complainant, or engaged in any form of judicial misconduct. The claims 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, the five complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii). As discussed, Complainant filed these five complaints in a short span of time, and they are all merits-related, unsubstantiated, and frivolous. Complainant is strongly cautioned that the 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.²

s/ Michael A. Chagares
Chief Judge

² 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: November 6, 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)(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.

s/ Michael A. Chagares
Chief Judge

Dated: November 6, 2024