

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90077, 03-24-90078, 03-24-90079, 03-24-90112, 03-24-90127, 03-24-90128, 03-24-90129, 03-24-90130, 03-24-90131, 03-24-90132

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: November 13, 2024)

PRESENT: CHAGARES, Chief Judge.

The present complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States Magistrate Judge, a United States District Judge, and five United States Court of Appeals Judges (“Subject Judge I,” “Subject Judge II,” and “Subject Judges III-VII”).¹ For the reasons discussed below, the complaints will be dismissed.²

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

¹ Two of the complaints name Subject Judge III, two name Subject Judge V, and an additional two complaints are against Subject Judge VI.

² Complainant also complains about the actions of the Clerk of Court, state court judges, and prosecutors. These allegations cannot be considered in the present proceedings because the Judicial Conduct and Disability Act only applies to covered judges. 28 U.S.C. § 352(b)(1)(A)(i); Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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 complains about rulings in an underlying civil suit, a mandamus proceeding, and an appeal. Complainant also complains about Subject Judge I’s denial of motions and Subject Judge II’s dismissal of his complaint. Complainant further complains about the Subject Judges’ putative misapplications of legal standards. Specifically, Complainant contends that Subject Judge III dismissed his appeal without a thorough examination of the merits and denied various motions.

Complainant also complains about four other Circuit Judges (Subject Judges IV, V, VI, and VII). Complainant seeks Judicial Council review of decisions made by these Subject Judges in a mandamus proceeding and an appeal. Complainant requests Judicial Council reconsideration of the denial of a petition for writ of mandamus by a panel including Subject Judges IV, V, and VI. He also attached a “Petition for Review/Complaint” naming Subject Judges V, VI, and VII. In this document, Complainant seeks oral argument and panel reassignment because he received a notice that his appeal would be submitted on the briefs without oral argument. Complainant,

moreover, appears to seek the recusal of all of the Subject Judges and the reassignment of his cases.³

It is evident that Complainant seeks to challenge the validity of the Subject Judges' rulings. Such allegations are merits-related and do not constitute cognizable misconduct in judicial misconduct proceedings. See 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). Complainant's 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.⁴

To the extent that any of Complainant's contentions in the misconduct complaints do not qualify as merits-based challenges, the allegations of misconduct are subject to dismissal as frivolous and unsupported by evidence that would raise an inference that

³ A motion seeking the recusal of Subject Judges V, VI, and VII has also been docketed in Complainant's pending appeal.

⁴ It is noted that Complainant complains about an appellate panel that has been assigned to one of his appeals but does not name one of the Circuit Judges from that panel in any of his complaints. I have considered these allegations under Rule 5 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings and decline to identify a complaint based on Complainant's merits-related allegations.

misconduct has occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant has provided no evidence of impartiality, bias, or other improper conduct by the Subject Judges aside from his disagreement with their judicial decisions.

Based on the foregoing, the complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), (iii). Given the frivolous and merits-related nature of the complaints filed by Complainant, his attention is directed to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.⁵

s/ Michael A. Chagares
Chief Judge

⁵ Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings, states:

(a) **Abusive Complaints.** 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 13, 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), (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 13, 2024