

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90083, 03-24-90096, 03-24-90107

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 9, 2024)

PRESENT: CHAGARES, Chief Judge.

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

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).

¹ Two of the complaints filed name Subject Judge I.

Complainant, a state prisoner, complains about the Subject Judges' decisions in his civil suits. Complainant states that Subject Judge I should not have dismissed an amended complaint and did not respond to his letters complaining about the dismissal. He further complains that Subject Judge I did not allow him to file a supplement and did not accept a late amended complaint. With respect to Subject Judge II, Complainant complains that he dismissed three civil suits about Complainant's putative illegal incarceration. Complainant also complains about Subject Judge II's determination that Complainant is a "three-striker" who is prohibited from proceeding in forma pauperis unless he is in imminent danger of serious physical injury.

Most of Complainant's allegations are not cognizable because they challenge the merits of judicial rulings. 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 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.²

To the extent that any of Complainant's contentions in the misconduct complaint do not qualify as merits-based challenges, Complainant's allegations are subject to dismissal as frivolous and unsupported by evidence that would raise an inference that 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 bias or any other improper conduct by the Subject Judges, nor does a review of the record provide any support for such claims.

Based on the foregoing, the complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii).

s/ Michael A. Chagares
Chief Judge

² Complainant also filed several unsworn submissions complaining about Subject Judge I, Subject Judge II, and a United States Magistrate Judge and a United States District Judge who were not named as Subject Judges in his sworn complaints. I have reviewed these submissions under Rule 5 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings and decline to identify a complaint based on these additional merits-related allegations. Complainant also complains about court and prison employees, prosecutors, and the governor, among others. These allegations are not cognizable under the Judicial Conduct and Disability and cannot be addressed here. Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(i).

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ORDER

(Filed: December 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 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: December 9, 2024