

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-24-90088

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: November 12, 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 plaintiff in an employment discrimination case before the Subject Judge. Shortly before trial was set to begin, Complainant requested a postponement of trial for medical reasons. The defendant opposed. The Subject Judge

held a telephone conference with the parties and denied the request. During a pretrial motions hearing, the Subject Judge noted on the record that Complainant's doctor's notes concerning his alleged medical condition were non-specific and contradictory, Complainant had been actively participating in pretrial proceedings, and Complainant was "very coherent." The Subject Judge therefore declined to reconsider the decision to deny postponement. The four-day trial proceeded as scheduled, and the jury returned a verdict in favor of the defendant. The Subject Judge entered judgment accordingly. Complainant appealed. A panel of the Court of Appeals affirmed the judgment and the full Court denied rehearing.

In this complaint of judicial misconduct, Complainant alleges that the Subject Judge discriminated against Complainant by denying the request to postpone trial. Complainant further alleges that the Subject Judge treated Complainant in a discourteous manner, wrongly accused Complainant and his doctor of "conspir[ing] to fake [Complainant's] injury," and caused Complainant "to endure a week of trial under severe pain and medical distress." Complainant claims that the Subject Judge's finding that Complainant's participation in trial demonstrated his fitness to proceed was "done to antagonize and harass" Complainant, and the Subject Judge's actions reflect bias, racism, and sexism.

Complainant's allegations seek to challenge the Subject Judge's denial of a postponement of trial. These allegations are related to the merits of a judicial ruling and therefore 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.”).

Notably, although Complainant appealed the judgment in his proceeding, Complainant did not claim on appeal that the Subject Judge erred by denying the requested continuance. This administrative proceeding does not provide an opportunity to review the merits of a claim that Complainant forfeited on direct appeal. “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 non-merits-related allegations, including discourtesy, antagonism, harassment, bias, sexism, and racism, are unsubstantiated. A careful review of the record reveals no evidence that the Subject Judge engaged in judicial misconduct. Complainant’s remaining claims are thus 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).

s/ Michael A. Chagares
Chief Judge

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ORDER

(Filed: November 12, 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.

s/ Michael A. Chagares
Chief Judge

Dated: November 12, 2024