

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90097, 03-24-90098, 03-24-90099,
03-24-90100, 03-24-90101, 03-24-90102, 03-24-90103

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 2, 2024)

PRESENT: JORDAN, Circuit Judge.¹

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against four United States District Judges (“Subject Judge I” through “Subject Judge IV”), one United States Magistrate Judge (“Subject Judge V”) and two United States Circuit Judges (“Subject Judge VI” and “Subject Judge VII”).² 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

¹ Acting as Chief Judge pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings (assigning the Chief Judge’s duties to the “most-senior active circuit judge not disqualified”).

² Complainant also presents allegations concerning the conduct of court employees who are not federal judges. Because such individuals are not covered by the Judicial Conduct and Disability Act, allegations against them are not cognizable in this proceeding. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i); Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings. Allegations concerning non-covered individuals will not be addressed.

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 has identified four proceedings relevant to his complaint of judicial misconduct. First, in 2020, while Complainant was a state prisoner, Complainant filed a pro se petition for a writ of habeas corpus that was assigned to Subject Judge II. Subject Judge II stayed the matter for several years while Complainant’s state post-conviction proceeding was pending. The stay was lifted in late 2023 when the state proceeding was resolved, and Complainant filed an amended habeas petition at that time. After briefing, Subject Judge II denied the petition, declined to issue a certificate of appealability, and closed the case. Complainant appealed. The appeal remains pending.

Next, in 2023, Complainant attempted to intervene in a class action matter that is pending before Subject Judge III. Subject Judge III denied Complainant’s motion to join the action as well as his requests for related relief. Complainant recently filed several new motions, including requests for recusal and reconsideration. The motions remain pending.

The third case is a pro se civil rights action filed in 2024, which was assigned to Subject Judge I and was referred to Subject Judge V. Shortly after the complaint was docketed, Subject Judge V issued a deficiency order, explaining that it could not be determined who plaintiff was trying to sue or why and directing Complainant to complete a court form. Complainant filed numerous motions but did not comply with the

deficiency order. He eventually filed the form more than a year later but did not clarify his claims. Subject Judge V issued another deficiency order. Complainant again filed motions and did not clarify his claims. Subject Judge V eventually issued a report and recommendation recommending that the matter be dismissed without prejudice due to Complainant's noncompliance. Subject Judge I adopted the recommendation and dismissed the case. Complainant filed several motions for reconsideration, which Subject Judge I denied, as well as an appeal. The appeal remains pending.

Finally, Complainant filed a petition for a writ of mandamus in the Court of Appeals, naming Subject Judges I and V. The matter remains pending.

This complaint of judicial misconduct is largely incomprehensible. It is a dense two-page list including the names of the Subject Judges and others, along with unexplained and disconnected words and phrases, such as “[Subject Judge I] maliciously <evaded> Plaintiff; salient (seamless) federal question answered,” “[Subject Judge V] dual R&R(s) stand out in left field (alone) as totally prejudicial,” “[Subject Judge III] foreclosed all merits review, ‘clearly erroneous & contrary to law to wit: with same abbreviated spoliated Fed Question, ‘FRAUD[S] ON THE COURT,’ and ‘Fraudulent spoliation (concealment) of Records.’” Without context, evidence, or elaboration, it is difficult to interpret the allegations of this complaint.

To the extent Complainant's words are intended to reflect Complainant's disagreement with rulings rendered by the Subject Judges in the four above-described proceedings, such 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.”). 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. It appears Complainant also may be alleging misconduct by Subject Judges VI and VII because they dismissed his prior complaints of judicial misconduct. If so, these are also merits-related allegations that 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 allegations concerning Subject Judge II include the phrase “inordinate delays.” To the extent Complainant is alleging that Subject Judge II unduly delayed resolution of his habeas proceeding, it is noted that “[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” Rule 4(b)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant has not claimed habitual delay or an improper motive. Moreover, it appears that the alleged delay in the habeas proceeding before Subject Judge II is attributable to the multi-year stay in place while Complainant exhausted his state court remedies. A challenge to Subject Judge II’s decision to enter a stay is merits-related and non-cognizable. 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The records in Complainant's proceedings have been carefully reviewed and do not reveal any basis for a conclusion that judicial misconduct has occurred. Thus, to the extent Complainant's allegations are cognizable, they are 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)(i), (ii), and (iii). Complainant previously filed complaints that were dismissed as merits-related, frivolous, and unsupported. See J.C. Nos. 03-21-90010, 03-24-90007, 03-24-90008, 03-24-90009. Complainant nonetheless filed the instant complaint, which is once again merits-related, frivolous, and unsupported. Complainant is cautioned that 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.³

³ 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.

s/ Kent A. Jordan
Circuit Judge

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ORDER

(Filed: December 2, 2024)

PRESENT: JORDAN, Circuit Judge.¹

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)(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.

¹ Acting as Chief Judge pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings (assigning the Chief Judge’s duties to the “most-senior active circuit judge not disqualified”).

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/ Kent A. Jordan
Circuit Judge

Dated: December 2, 2024