

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-24-90104

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 5, 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”).¹ 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 This misconduct complaint refers to actions by federal judges who are not specified by name and are not identified as Subject Judges of the complaint. Complainant alleges, for instance, that unidentified judges of the Court of Appeals “gang banged” him by “despitefully, and with disrespect and persecution, knowingly affirmed every illegal and criminal adjudication of [the Subject Judge].” 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 against these unnamed federal judges will be identified. See Rule 5(a), 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 filed a pro se civil action over a decade ago, claiming that his former school and others engaged in libel, slander, and assault. The matter was assigned to the Subject Judge, who dismissed the complaint. Complainant appealed and also filed several post-judgment motions, including a motion for the Subject Judge’s recusal and a motion to vacate the judgment. The Subject Judge denied the motions and Complainant filed a second appeal. The appeals were unsuccessful. The matter before the Subject Judge has been closed for ten years.

In this complaint of judicial misconduct, Complainant alleges that the Subject Judge “unconstitutionally dismissed” his complaint and acted “in . . . clear absence of jurisdiction” in entering judgment against him and by denying his post-judgment motions. Complainant claims that the Subject Judge “acted completely out of her capacity as a Judge,” violated Complainant’s constitutional rights, and entered rulings that are “criminal” and “cannot be enforced.” Complainant also has submitted a copy of a new motion for relief from judgment, which he apparently intends to file in the closed civil case.

Many of Complainant’s allegations are not cognizable because they attempt to 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.”). Complainant expresses disagreement with the judgment entered against him and the denial of his post-judgment motions. These are merits-related allegations. “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 non-merits-related allegations are baseless. Complainant offers no evidence to substantiate his claim that the Subject Judge acted criminally or outside of her judicial capacity. A careful review of the record reveals no evidence to substantiate a claim of judicial misconduct. The remaining allegations 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, 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: December 5, 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: December 5, 2024