

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-24-90106

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 18, 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, a state prisoner, filed a pro se civil rights complaint in March 2023, which was assigned to the Subject Judge in April 2024.¹ The Subject Judge addressed several pending motions and directed Complainant to file an amended complaint. Complainant complied, and the amended complaint was docketed in June 2024. To date, the Subject Judge has not yet screened the amended complaint pursuant to 28 U.S.C. § 1915(e), which provides that a court “shall dismiss the case at any time” if it is determined that the action is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. 28 U.S.C. § 1915(e)(2).

In this complaint of judicial misconduct, Complainant alleges that the Subject Judge has failed to “promptly” screen the amended complaint pursuant to § 1915. Complainant further alleges that the Subject Judge has failed to promptly screen other, unidentified prisoner complaints and therefore has engaged in “habitual” delay. Complainant alleges that the habitual delay is attributable to disability.

Complainant’s allegation of excessive delay is subject to dismissal. See 28 U.S.C. § 352(b)(1)(A)(ii); Rules 4(b)(2), 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. “Cognizable 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 alleged an improper motive on the part of the Subject Judge.

¹ The original presiding District Judge is not named as a subject judge of this misconduct complaint.

Although Complainant does allege habitual delay, Complainant refers only vaguely to “other” complaints that “aren’t screened promptly” and fails to identify any case that supports his claim.

Even Complainant’s own case does not support an undue delay claim. While Complainant’s amended complaint has been pending for several months, this period is not so lengthy as to constitute excessive delay. See, e.g., Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996) (observing that a delay of greater than six months did not rise to the level of a denial of due process). There is good reason to remain confident that the Subject Judge will rule on the amended complaint without undue delay. The claim is 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.

Complainant’s allegation that the Subject Judge suffers from an unidentified disability also lacks evidentiary support. The record reveals no evidence to substantiate such a claim. This allegation likewise will be dismissed 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 18, 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 18, 2024