

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-24-90108

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: January 14, 2025)

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 Bankruptcy Judge (the “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 filed a pro se bankruptcy petition that was assigned to the Subject Judge. A creditor moved for relief from the automatic bankruptcy stay so it could

foreclose on Complainant's house. In addition, Complainant moved to disqualify the Subject Judge and the debtor moved to dismiss the case. The Subject Judge granted the creditor's motion for relief from the stay and denied Complainant's motion to disqualify. In the order denying disqualification, the Subject Judge observed that Complainant appeared to be angry about court rulings, which is not a valid basis recusal. The Subject Judge then granted the motion to dismiss the bankruptcy petition, barred Complainant from filing additional bankruptcy petitions without leave of court for a two-year period, and closed the case. Complainant filed an appeal to the District Court seeking review of the disqualification denial. The District Court dismissed the appeal as untimely filed.

This lengthy complaint of judicial misconduct presents numerous allegations concerning the Subject Judge.¹ Complainant alleges, among other things, that the Subject Judge engaged in "conspiracy," "collusion," and "malfeasance," "allows fraud upon the courts," took part in ex parte communications with creditors, deprived Complainant of a fair trial, permitted "fraud and shenanigans" in the bankruptcy proceeding, and tampered with court records. Complainant claims that the Subject Judge is an inappropriate non-impartial/bias[ed] decision-maker unfit to sit in any proceeding involving" Complainant.

Although many of Complainant's allegations are confusing and unclear, it appears Complainant's primary concern is the Subject Judge's decision to grant relief from the

¹ Complainant also alleges misconduct by the bankruptcy trustee, court employees, and others. Such individuals are not federal judges and therefore are not subject to the Judicial Conduct and Disability Act. See 28 U.S.C. § 351(d); Rule 1(b), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Allegations non-covered individuals will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

bankruptcy stay, which permitted the foreclosure of Complainant's house. Complainant also disputes several related rulings, including the denial of a sanctions motion, Complainant's objections to service and notice of certain proceedings, and the Subject Judge's failure to recuse. These allegations call into question the correctness of the Subject Judge's rulings 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."). This administrative proceeding does not provide a forum for review of the merits of judicial decisions. "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.

When considered apart from the merits-related allegations, it is apparent that Complainant offers no evidence to substantiate the claims of misconduct, including bias, collusion, ex parte communications, fraud, and the like. A careful review of the record reveals no evidence 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)(i), (ii), and (iii).

s/ Michael A. Chagares
Chief Judge

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-24-90108

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

ORDER

(Filed: January 14, 2025)

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)(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: January 14, 2025