

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-24-90136

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 16, 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 Circuit 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 complains about the Subject Judge’s decision rejecting an argument that a photograph of a Bankruptcy Judge and Chapter 7 Trustee taken at a law foundation event constituted evidence of bias. Complainant insists that the photo is evidence of bias

because, according to him, documents show that the Bankruptcy Judge and Trustee “were neighbors living only a few doors apart from each other” Complainant states that the Subject Judge “ignored the proof” and attached to his complaint are two putative mortgage documents.¹

It is apparent that Complainant’s allegations reflect his dissatisfaction with the Subject Judge’s decision dismissing Complainant’s appeal. Allegations disputing the merits of judicial rulings do not, however, constitute cognizable misconduct under the Judicial Conduct and Disability Act. “Cognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The “misconduct procedure [under the 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). Accordingly, Complainant’s non-cognizable 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.

Furthermore, to the extent Complainant contends that the Subject Judge’s decision rejecting the allegation of bias was itself based on an improper motive, his allegation is baseless. The record has been reviewed and there is no evidence of judicial misconduct.

¹ The Bankruptcy Judge is not named as a Subject Judge in the present complaint.

Furthermore, Complainant raised similar allegations about the Bankruptcy Judge's putative bias in J.C. No. 03-21-90009 and these allegations were 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. As discussed in the opinion issued in J.C. No. 03-21-9000009, the Bankruptcy Judge stated in a hearing that:

the [the Bankruptcy Judge] was unaware of the proximity of the two addresses in question until the addresses were listed in a district court filing. Moreover, the [Bankruptcy Judge] recalls (based on prior knowledge) that the trustee's former wife lives at the address in question and not the trustee. Furthermore, the fact that the [Bankruptcy Judge] and the trustee were both active in the same nonprofit organization is not evidence of judicial misconduct.

Thus, to the extent Complainant contends that the Subject Judge is biased or otherwise engaged in judicial misconduct because he ignored "proof" for an improper reason, the present complaint is 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 16, 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 16, 2024