

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90141, 03-24-90142, 03-24-90143

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: February 28, 2025)

PRESENT: CHAGARES, Chief Judge.

The present complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against three United States Court of Appeals Judges (“Subject Judges I, II, and III”).¹ For the reasons discussed below, the complaints will be dismissed.²

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 Complainant filed prior complaints naming the same Subject Judges. These complaints were dismissed previously as frivolous and merits-related. See J.C. Nos. 03-24-90127, 03-24-90128, 03-24-90129, 03-24-90131, 03-24-90132. Complaints were also filed naming other Subject Judges who are not named again here and were likewise dismissed. A petition for review was denied by the Judicial Council. See J.C. Nos. 03-24-90077, 03-24-90078, 03-24-90079, 03-24-90112, 03-24-90127, 03-24-90128, 03-24-90129, 03-24-90130, 03-24-90131, 03-24-90132.

² Complainant also complains about the actions of the Clerk of Court, state court judges, and prosecutors. These allegations cannot be considered in the present proceedings because the Judicial Conduct and Disability Act only applies to covered judges. 28 U.S.C. § 352(b)(1)(A)(i); Rule 1, 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 alleges that the Subject Judges engaged in delay during his mandamus proceeding in addressing “supplemental information and [a] motion for relief” and declined to rehear the case without providing “clear evidence.” Complainant also alleges that the failure to “engage meaningfully with the evidence and arguments” indicates “predisposition to deny relief.” Complainant further contends that mandamus relief was denied due to procedural flaws and a failure to consider critical evidence.

It is evident that Complainant seeks to challenge the validity of the Subject Judges’ rulings. Such allegations are merits-related and do not constitute cognizable misconduct in judicial misconduct proceedings. See 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.”). 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

allegations are thus 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 of delay are also subject to dismissal as merits-related. 28 U.S.C. § 352(b)(1)(A)(ii). 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. See also Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. To the extent Complainant suggests that the Subject Judges had an improper motive for their putative delay, his allegations are dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) as unsupported by any evidence that would raise an inference that misconduct occurred.³

To the extent that any of Complainant's remaining contentions in the misconduct complaints do not qualify as merits-based challenges, the allegations of misconduct are subject to dismissal as frivolous and unsupported by evidence that would raise an inference that misconduct has occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant has provided no evidence of impartiality, bias, or other improper conduct by the Subject Judges aside from his disagreement with their judicial decisions.

³ There is no allegation of habitual delay here.

Based on the foregoing, the present complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), (iii). Given the frivolous and merits-related nature of the complaints filed by Complainant, his attention is again directed to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.⁴

s/ Michael A. Chagares

Chief Judge

⁴ Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings, states:

(a) Abusive Complaints. 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.

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ORDER

(Filed: February 28, 2025)

PRESENT: CHAGARES, Chief Judge.

On the basis of the foregoing opinion entered on this date, it is ORDERED AND ADJUDGED that the written complaints brought pursuant to 28 U.S.C. § 351 are hereby dismissed under 28 U.S.C. § 352(b)(1)(A)(i),(ii), (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: February 28, 2025