

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90148, 03-24-90149,
03-25-90018

IN RE: COMPLAINTS OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: February 26, 2025)

PRESENT: HARDIMAN, Circuit Judge.¹

These complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States District Judge (“Subject Judge I”), a United States Magistrate Judge (“Subject Judge II”), and a United States Circuit Judge (“Subject Judge III”).² For the reasons discussed below, the complaints 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 Acting as Chief Judge pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings (assigning the Chief Judge’s duties to the “most-senior active circuit judge not disqualified”).

² Complainant also attempted to file a complaint against court employees who are not federal judges. Complainant was informed that such individuals 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. The complaint was not accepted for filing as to any non-covered individuals, and allegations of misconduct against non-covered individuals will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

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 challenging a local election. The matter was assigned to Subject Judge I and was referred to Subject Judge II. Subject Judge II issued a report and recommendation recommending denial of the entry of a default judgment against the defendants. Complainant objected. Subject Judge I adopted the report and recommendation, set aside the clerk’s default, and referred the matter back to Subject Judge II for pretrial proceedings. Subject Judge II then issued a second report and recommendation recommending that the defendants’ motions to dismiss be granted. Complainant again objected. Subject Judge I adopted the recommendation, granted the motions to dismiss, and closed the case. Complainant filed an appeal, which remains pending.

In the first complaint of judicial misconduct, Complainant alleges that Subject Judges I and II have engaged in “a pattern of delays, evasion, and denial of substantive review that deprived [Complainant] of meaningful access to justice.” Among other things, Complainant alleges that Subject Judge II directed briefing on venue “without justification” in order to delay the proceeding, granted the defendants an extension of time “without cause,” erroneously set aside a default judgment, and “ignored multiple objections” filed by Complainant. Complainant alleges that Subject Judge I “failed to

independently review objections” filed by Complainant, “den[ied] de novo review” by adopting Subject Judge II’s reports and recommendations, erroneously dismissed the complaint, and failed to rule on a sanctions motion. Complainant appended to the complaint a “scorecard” purporting to demonstrate that the Subject Judges have ruled unfavorably to him 19 times and have never ruled unfavorably to the defendants.

In the second complaint of judicial misconduct, Complainant alleges that Subject Judge III has permitted “[p]rolonged inaction” on 30 filings in his appeal, has allowed the Clerk to list the appeal for summary disposition “contrary to procedural rules,” and has “failed to safeguard [Complainant’s] rights as a pro se litigant pursuing constitutional claims.”³ Complainant further claims that Subject Judge III is to blame for all problems Complainant has encountered in the court system because Subject Judge III allegedly “bears direct responsibility for supervising court officers, ensuring procedural integrity, and addressing systemic issues within the judiciary.”

It is apparent that Complainant is attempting to challenge the merits of unfavorable judicial rulings that were rendered by Subject Judges I and II during his civil action. Such allegations are merits-related and 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.”). Indeed, many rulings rendered by Subject Judges I and II likely will be reviewed during Complainant’s pending appeal. This administrative

³ It is noted that Complainant’s appeal has not yet been assigned to a panel of Circuit Judges for disposition.

proceeding does not provide an additional opportunity for substantive review of those 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.

Complainant also alleges delay in his court proceedings. Generally, however, delay does not constitute cognizable misconduct. “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 habitual delay and has offered nothing to substantiate a claim of improper motive. Moreover, a review of the dockets reveals no excessive periods of inactivity to support a claim of undue delay. Complainant’s appeal, for instance, has been pending only a few months (since October 2024), and throughout that time, Complainant has filed numerous motions, letters, other submissions that will require significant time to review and resolve. Because the record simply does not support a claim that the matter has been subject to undue delay, the

allegation 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.

Complainant's remaining non-merits-related allegations are also unsubstantiated. A careful review of the record reveals no evidence to support Complainant's claims that the Subject Judges denied him access to justice, failed to safeguard his rights, or otherwise engaged in any form of judicial misconduct. All remaining claims 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, these complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii), and (iii).

s/ Thomas M. Hardiman
Circuit Judge

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ORDER

(Filed: February 26, 2025)

PRESENT: HARDIMAN, Circuit Judge.¹

Based on 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), 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.

¹ Acting as Chief Judge pursuant to Rule 25(f), Rules for Judicial-Conduct and Judicial-Disability Proceedings (assigning the Chief Judge’s duties to the “most-senior active circuit judge not disqualified”).

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/ Thomas M. Hardiman
Circuit Judge

Dated: February 26, 2025