

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-24-90156, 03-24-90157, 03-24-90158, 03-24-90159

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: April 7, 2025)

PRESENT: CHAGARES, Chief Judge.

The present complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States Magistrate Judge and three United States Court of Appeals Judges (“Subject Judge I” and “Subject Judges II-IV”).¹ 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,

¹ Complainant filed prior complaints naming some of the same Subject Judges, as well as other federal judges who are not named again here, and these complaints were dismissed as frivolous and merits-related. 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. A petition for review filed regarding the opinion issued in those matters was denied by the Judicial Council. Complainant also filed J.C. Nos. 03-24-90141, 03-24-90142, and 03-24-90143 and that complaint was dismissed.

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 rulings in an underlying civil suit and unsuccessful appeal. Complainant complains that Subject Judge I terminated his motions “arbitrarily” and that the appellate panel failed to address “evidence of fabricated surveillance footage.” He also complains that costs were imposed against him and that Subject Judges II-IV failed to address his motion for oral argument “for over a month” and issued a “perfunctory” opinion. Complainant further alleges that Subject Judges II-IV should have recused themselves.

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 regarding his motion for oral argument 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 in addressing his request for oral argument, 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.²

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.

² There is no allegation of habitual delay here.

As noted above, Complainant has filed multiple judicial misconduct complaints that were dismissed because they contained non-cognizable, frivolous, merits-based, and unsupported allegations. 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, 03-24-90141, 03-24-90142, and 03-24-90143. Prior to the filing of the present complaint, Complainant was cautioned that the continued filing of repetitive, harassing, or frivolous complaints might result in the imposition of restrictions pursuant to Rule 10 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, but continued to file more complaints containing frivolous, unsubstantiated, and merits-related allegations. Accordingly, copies of this opinion and my prior opinions will be transmitted to the Judicial Council for consideration of the issuance of an order to show cause why Complainant should not be restricted from filing further complaints pursuant to Rule 10(a).³

Based on the foregoing, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and (iii).

³ 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.

s/ Michael A. Chagares
Chief Judge

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ORDER

(Filed: April 7, 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)(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: April 7, 2025