

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-24-90162

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IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

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

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MEMORANDUM OPINION

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(Filed: March 13, 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 District 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 is a pro se litigant who has removed many state court matters to federal court. Four such removed cases were assigned to the Subject Judge, who issued orders concluding that removal was improper and remanding the matters to state court. In

one such order, the Subject Judge concluded that Complainant's repeated removals of the same matters were vexatious in nature and were an effort to employ removal to avoid state court obligations. Complainant filed appeals in each proceeding. One appeal was stayed, a second is pending, and the final two resulted in judgments affirming the Subject Judge's remand orders.

Complainant alleges in this complaint of judicial misconduct that "all cases are consistently assigned to [the Subject Judge] without rotation among judges, which appears to be contrary to the principles of fair and impartial administration of justice." To support this allegation, Complainant lists the four previously discussed removed cases.

Complainant also alleges "misconduct and threats" by the Subject Judge. Complainant identifies an order by Subject Judge stating that "[a]ny further attempts to remove this action to this Court absent a clear and obvious jurisdictional basis will be denied."

Complainant claims that this order language is unfair, intimidating, and demonstrates bias.

Complainant's allegations concerning case assignments do not support a claim of misconduct on the part of the Subject Judge. As a factual matter, Complainant is incorrect that "all" cases were assigned to the Subject Judge, as Complainant has participated in cases before at least one other District Judge. Moreover, there is no evidence that the Subject Judge was involved in the process of assigning Complainant's cases. Clerk's Office personnel assign cases to judges, and they are required to assign related cases to the

same judge.<sup>1</sup> See D.N.J. Local Civil Rule 40.1(b)(1), (c). Complainant’s 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.

To the extent Complainant is attempting to challenge the merits of the Subject Judge’s remand orders, such allegations 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.”). Complainant appealed those orders, and this administrative proceeding does not provide an alternative forum for 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). Merits-related 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.

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<sup>1</sup> It is noted that Clerk’s Office personnel 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 of misconduct against such non-covered individuals will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

The Subject Judge’s order stating that “[a]ny further attempts to remove this action to this Court absent a clear and obvious jurisdictional basis will be denied” also does not support a claim of misconduct. The order has been reviewed in its entirety. The language of the order is neither objectively threatening nor does it reasonably demonstrate bias against Complainant. Complainant’s 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

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ORDER

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(Filed: March 13, 2025)

PRESENT: CHAGARES, Chief Judge.

Based on 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](http://www.ca3.uscourts.gov).

s/ Michael A. Chagares  
Chief Judge

Dated: March 13, 2025