

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-25-90021 & 03-25-90026

IN RE: COMPLAINTS OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: March 24, 2025)

PRESENT: CHAGARES, Chief Judge.

These complaints are filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against a United States Magistrate 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 filed four pro se petitions for a writ of mandamus in early February 2025. The petitions were assigned to a District Judge¹ and were referred to the Subject Judge. The matters had been pending less than three weeks when Complainant filed his first complaint of judicial misconduct, followed shortly thereafter by a very similar second complaint. In them, Complainant alleges that, by “failing to take timely action on any [of] the four petitions,” the Subject Judge has violated the constitution, has discriminated against Complainant, and has engaged in fraud and obstruction of justice.

To the extent Complainant claims undue delay in ruling on the mandamus petitions, the allegations are subject to dismissal. “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 in a significant number of unrelated cases. Although Complainant does allege improper motives including discrimination, fraud, and obstruction of justice, he has provided no evidence whatsoever to substantiate such claims. A careful review of the records in the four proceedings yields no evidence of judicial misconduct. Such allegations are therefore 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.

¹ The presiding District Judge is not named as a Subject Judge of this misconduct complaint.

Additionally, Complainant's allegations of delay lack a factual basis.

Complainant's mandamus petitions have been pending for just over one month to date. Such a period simply does not constitute excessive delay. See, e.g., Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996) (observing that a delay of greater than six months did not rise to the level of a denial of due process). Indeed, the Subject Judge recently issued orders to show cause why the petitions should not be dismissed as frivolous or for lack of jurisdiction. Complainant's claim of delay is 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, the complaints 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: March 24, 2025)

PRESENT: CHAGARES, Chief Judge.

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)(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: March 24, 2025