

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-25-90027

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: May 14, 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, a prisoner, filed a pro se civil rights action that was assigned to the Subject Judge. The defendants moved to dismiss the complaint for failure to state a claim. The Subject Judge granted the motion. Complainant moved for reconsideration and for

the Subject Judge's recusal. The Subject Judge denied both motions.

This complaint of judicial misconduct is simply a copy of Complainant's motion for the Subject Judge's recusal. In the motion, Complainant alleges that the Subject Judge engaged in ex parte communications with counsel for the defense, "cut and pasted" sections of the defendants' motion to dismiss in the order dismissing the complaint, "cater[ed] to the defendants in every aspect," neglected to address one of Complainant's claims, and failed to resolve Complainant's motion alleging that the defense attorneys were not authorized to represent the defendants.

All of Complainant's misconduct allegations were set forth in his recusal motion, which the Subject Judge denied. Allegations concerning a failure to recuse, without more, are related to the merits of a procedural ruling and therefore do not constitute cognizable misconduct under the Judicial Conduct and Disability Act. 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."). Moreover, the primary basis for Complainant's recusal motion is his disagreement with the Subject Judge's order granting the defendants' motion to dismiss. This, too, is a merits-related dispute. "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 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.

In addition to being merits-related, Complainant's allegations of misconduct are groundless. The Subject Judge expressly stated in the order denying recusal that no ex parte communications informed the decision to grant the motion to dismiss, that the Subject Judge harbors no bias toward any party, and that there is no basis for recusal. A careful review of the record reveals no evidence to substantiate these or any other claims of judicial misconduct. All 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)(ii) and (iii).

s/ Michael A. Chagares
Chief Judge

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ORDER

(Filed: May 14, 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)(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: May 14, 2025