

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-25-90035, 03-25-90036, 03-25-90037, 03-25-90038

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: May 15, 2025)

PRESENT: CHAGARES, Chief Judge.

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against two United States District Judges (“Subject Judge I” and “Subject Judge II”) and two United States Magistrate Judges (“Subject Judge III” and “Subject Judge IV”). 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, has filed three pro se civil complaints. Subject Judge I dismissed the first complaint without prejudice for failure to file a proper motion to

proceed in forma pauperis (“IFP”). The second matter is pending before Subject Judges II and III and the third matter is pending before Subject Judges II and IV. In both, Complainant has filed IFP motions that have not yet been resolved.

Complainant alleges that, although he mailed a new IFP motion several months ago, the matter that Subject Judge I dismissed without prejudice has not been reopened. Complainant further alleges that he has not received adequate notice of the status of any of his cases and “suspect[s] the process of the proceedings are being mishandled.” Complainant also indicates that he attempted to file additional complaints that have been improperly “consolidated.” Complainant attributes the “pattern” of “abuse of process” in his cases to the improper influence of “an outside source,” a clerk, or a judge.

Many of Complainant’s allegations reflect concerns about clerical matters, such as the docketing of IFP motions, provision of notice regarding case status, and the process of case consolidation. Such allegations do not support a claim of misconduct on the part of the four Subject Judges. Clerical functions are typically performed by District Court Clerk’s Office staff, not judges,¹ and the record does not demonstrate that the Subject Judges played a clerical role in Complainant’s cases here. These allegations are therefore subject to dismissal as frivolous and unsupported by evidence that would raise an

¹ Clerk’s Office staff 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 non-covered individuals will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i).

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 claims that Subject Judges I and IV should have re-opened his dismissed case and have not done so, such allegations can be understood as a challenge to the merits of the dismissal order or as a claim that the Subject Judges have improperly delayed re-opening Complainant's case. Either way, such allegations are merits-related and therefore do not constitute cognizable misconduct.² 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."); Rule 4(b)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings ("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."³). 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.

A careful review of the record in Complainant's proceedings reveals no basis for concluding that the Subject Judges have engaged improper "influence" or any other form

² If Complainant intended to file a new IFP motion in that closed case and the motion has not been docketed as he wishes, Complainant must follow up with the District Court clerk's office. Accusing the presiding judges of judicial misconduct is not an effective method for addressing Complainant's administrative concerns.

³ Complainant does not allege improper motive or habitual delay.

of judicial misconduct. 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

(Filed: May 15, 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.

s/ Michael A. Chagares
Chief Judge

Dated: May 15, 2025