

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-25-90098

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 16, 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.¹

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).

¹ Complainant filed a prior complaint against the same Subject Judge that was dismissed as frivolous and merits-related. J.C. No. 03-23-90004.

Complainant was convicted of a crime and has filed multiple motions seeking postconviction relief. The Subject Judge denied motions filed under 28 U.S.C. § 2255 and 28 U.S.C. § 2241. Most recently, the Subject Judge declined to issue a Certificate of Appealability regarding an order denying Complainant's "Motion to Vacate/Set Aside/Correct Sentence" because the Subject Judge concluded it was a successive petition filed pursuant to 28 U.S.C. § 2255.

In the present administrative proceeding, Complainant alleges that the Subject Judge had an improper ex parte communication with the prosecutor and seeks to have his conviction set aside. In support of this allegation, Complainant references a statement in a brief filed by the government. In the footnote, the government attorney stated that she contacted chambers after being ordered to respond to a pleading that the government was not served with. The attorney said, "the undersigned contacted chambers, and was advised that because the government was not served it need not respond to the motion." This statement is not evidence of judicial misconduct. Even assuming arguendo that the attorney spoke directly with the Subject Judge, the Code of Conduct for United States Judges authorizes ex parte communication for administrative purposes. Canon 3A(4), Code of Conduct for United States Judges ("A judge may... (b) when circumstances require it, permit ex parte communication for scheduling, administrative, or emergency purposes"). The communication at issue is here was a permissible administrative communication that did not address a substantive matter and did not give the government a "procedural, substantive, or tactical advantage." Id. Accordingly, Complainant's

allegation regarding an improper ex parte communication is subject to dismissal as 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)(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

To the extent Complainant seeks to collaterally attack his conviction or the Subject Judge's resolution of his postconviction motions, the complaint will be dismissed as merits-related. Merits-related 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 . . ."). Complainant has filed several appeals, and this administrative proceeding does not provide an alternative forum for review of those judicial rulings. "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 therefore 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.

Based on the foregoing, this complaint of judicial misconduct 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: December 16, 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: December 16, 2025