

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-25-90128

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: March 4, 2026)

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 plaintiff in two civil rights actions that were filed in 2021 and 2023. In them, Complainant complains of health effects due to exposure to second-

hand smoke. The two matters were pending before another District Judge until they were reassigned to the Subject Judge within the past year. Pursuant to a court-wide administrative order, a stay was entered in both matters for about six weeks. The stay since has been lifted and the matters remain pending.

Complainant alleges in this complaint of judicial misconduct that the Subject Judge has unduly delayed resolution of Complainant's cases and has conspired with the prison to deprive Complainant of his constitutional rights. Specifically, Complainant alleges that he has "filed several motions attempting to move the case forward quick," but the Subject Judge has not resolved those motions. Complainant accuses the Subject Judge of "reckless and malicious behavior," deliberate indifference, cruel and unusual punishment, and bias.

It is apparent that Complainant's primary concern in this complaint of judicial misconduct is his claim of undue delay in the resolution of the two civil actions. Yet "[c]ognizable 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. Although Complainant alleges improper motive in the form of bias and malice, the record does not substantiate Complainant's allegations. Moreover, even if delay allegation were cognizable, the record does not establish a period of undue delay in either of Complainant's proceedings that rises to the level of judicial misconduct on the part of the

Subject Judge. As already described, these matters were assigned to the Subject Judge less than one year ago and were stayed for over a month pursuant to a court-wide administrative order. Complainant's claim of delay therefore is 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.

Additionally, to the extent Complainant has raised these concerns in the course of his civil proceedings, the allegations are 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, including a failure to recuse.”). The proper course for obtaining review of the merits of judicial rulings is a procedurally proper appeal, and this administrative proceeding is not a supplement to or an alternative for such an appeal. In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008) (“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.”). Because merits-related allegations are not cognizable, they 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.

Complainant's remaining allegations are unsubstantiated. A careful review of the record reveals no evidence of bias, conspiracy, maliciousness, deliberate indifference, or any form of judicial misconduct. Complainant's non-merits-related 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). Complainant previously filed two judicial misconduct complaints that also were dismissed as merits-related, unsubstantiated, and frivolous. See J.C. Nos. 03-24-90071, 03-24-90139. Complainant is cautioned that continued filing of repetitive, harassing, or frivolous misconduct complaints may result in the imposition of restrictions pursuant to Rule 10 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.¹

¹ Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides:

A complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints. After giving the complainant an opportunity to show cause in writing why his or her right to file further complaints should not be limited, the judicial council may prohibit, restrict, or impose conditions on the complainant's use of the complaint procedure. Upon written request of the complainant, the judicial council may revise or withdraw any prohibition, restriction, or condition previously imposed.

s/ Michael A. Chagares

Chief Judge

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ORDER

(Filed: March 4, 2026)

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: March 4, 2026