

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-19-90016

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IN RE: COMPLAINT OF JUDICIAL MISCONDUCT  
OR DISABILITY

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

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MEMORANDUM OPINION

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(Filed: March 20, 2019)

PRESENT: SMITH, *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”).<sup>1</sup> 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).

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<sup>1</sup> To the extent Complainant’s allegations concern actions by individuals who are not covered by the Judicial Conduct and Disability Act, the allegations will not be addressed in this opinion. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i); Rule 4, *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

Complainant alleges that the Subject Judge's spouse's law firm represented an attorney who was the subject of an attorney grievance proceeding initiated by Complainant.<sup>2</sup> Complainant views this as evidence of a conspiracy and an "influence peddling and enrichment scheme" because this same attorney represented a party in a civil action that was pending before the Subject Judge.<sup>3</sup> Complainant further asserts that this was a "conflict of interest" that the Subject Judge should have known about and that the Subject Judge should have informed the parties to the civil action about the conflict. In addition, Complainant contends there was undue influence because, in his opinion, the attorney could not have afforded the spouse's legal representation due to "financial difficulties."

Complainant's allegations constitute baseless speculation and innuendo. A review of the district court record reflects that the attorney in question wrote a letter to the Subject Judge stating that he was represented by the Subject Judge's spouse's law firm partner in a personal matter.<sup>4</sup> The attorney copied defense counsel on the letter and submitted it before the Subject Judge made any substantive rulings in the civil suit. The letter in question was docketed and available to all of the parties to review. Thereafter, the civil suit was reassigned to another District Judge. There is no evidence of judicial misconduct.

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<sup>2</sup> Correspondence attached to his complaint indicates that the attorney grievance proceeding was dismissed.

<sup>3</sup> Complainant had no role in the civil proceeding in question.

<sup>4</sup> The letter stated that the attorney had never met the Subject Judge's spouse or spoken to the spouse.

Accordingly, Complainant's allegations of judicial misconduct are dismissed as frivolous and unsupported by sufficient evidence to 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*.

For all of the foregoing reasons, the complaint is dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i) and (iii).

s/ D. Brooks Smith  
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Chief Judge

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ORDER

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(Filed: March 20, 2019 )

PRESENT: SMITH, *Chief Judge*.

On the basis of 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) 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](http://www.ca3.uscourts.gov).

s/ D. Brooks Smith

Chief Judge

Dated: March 20, 2019