

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-21-90076, 03-21-90077, 03-21-90078

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: January 31, 2022)

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 I”) and two United States Magistrate Judges (“Subject Judge II” and “Subject Judge III”). 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 was a criminal defendant before Subject Judge I. Subject Judges II and III oversaw certain pre-trial matters. After Complainant entered a guilty plea, Subject

Judge I sentenced Complainant to a substantial term of imprisonment. His appeal is pending.

After Complainant entered his guilty plea but prior to his sentencing, Complainant filed a pro se civil rights action regarding his arrest and pre-trial detention. The civil matter was assigned to Subject Judge I. Subject Judges II and III were not involved with the case. Subject Judge I ultimately granted summary judgment to the defendant. Complainant did not appeal.

In this complaint of judicial misconduct, Complainant alleges that Subject Judges II and III made unfair decisions in his criminal proceeding based upon Complainant's mental health history, including unauthorized consideration of his medical records. Complainant further alleges that Subject Judge II violated his right to a speedy trial by granting continuances. Finally, Complainant claims that Subject Judge I "acted with a conflict of interest" in Complainant's criminal sentencing because Subject Judge I also was overseeing Complainant's civil suit. Complainant states that "[Subject Judge I] should have deferred it to a different judge knowing that a civil suit had been filed. . . ."

Complainant's allegations primarily reflect disputes with the merits of various judicial rulings, including the decisions by Subject Judge II and III to consider Complainant's medical history, by Subject Judge II to grant continuances, and by Subject Judge I to decline to recuse.¹ Such merits-related allegations do not constitute cognizable

¹ Complainant did not file a motion seeking Subject Judge I's recusal from the criminal proceeding. A request for recusal must be presented to the presiding judge in the first instance. A substantive decision rendered on a recusal motion is merits-related and non-

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.”). 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.

Complainant offers nothing apart from the merits-related allegations to substantiate his claim that the three Subject Judges acted improperly. Complainant suggests that Subject Judge I’s failure to recuse from his criminal sentencing constitutes an ethical violation, but the fact that Subject Judge I presided over Complainant’s related civil suit, without more, does not reasonably give rise to any questions concerning Subject Judge I’s impartiality. See Canon 3(C)(1), Code of Conduct for United States Judges (listing circumstances, not applicable here, in which a judge’s impartiality might be reasonably questioned, such as having a financial interest in the outcome).² Because the record reflects no basis for a determination that misconduct has occurred, this complaint is subject to dismissal as frivolous and unsupported by evidence that would raise an

cognizable. See Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

² The Code of Conduct for United States Judges is designed to provide guidance to judges but is not a set of disciplinary rules. “While the Code’s Canons are instructive, ultimately the responsibility for determining what constitutes cognizable misconduct is determined by the Act and these Rules, as interpreted and applied by judicial councils, subject to review and limitations prescribed by the Act and these Rules.” Commentary on Rule 4, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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: January 31, 2022)

PRESENT: CHAGARES, 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)(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: January 31, 2022