

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

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J.C. No. 03-22-90087

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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: January 18, 2023)

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 alleges that the Subject Judge is engaging in “harassing, abusive, prejudicial, and biased” behavior. He further alleges that she is engaged in “dilatatory” practices. In support of these allegations, Complainant contends that the Subject Judge

has not ruled on his motion to proceed pro se and has not construed his pro se submissions liberally. Complainant also complains about the application of the Speedy Trial Act in his criminal proceeding and expresses disagreement with the Subject Judge's decision to order a mental evaluation.

To the extent Complainant seeks to collaterally attack the Subject Judge's decisions in his criminal proceeding, his allegations are subject to dismissal. Merits related allegations are not cognizable under the Judicial Conduct and Disability Act. 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."); see also 28 U.S.C.

§ 352(b)(1)(A)(ii); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The record for the criminal proceeding, moreover, has been reviewed and there is no evidence of judicial misconduct. Complainant's disagreement with the Subject Judge's decisions is not evidence of judicial misconduct. Accordingly, Complainant's allegations are 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.<sup>1</sup>

Based on the foregoing, this complaint will be dismissed pursuant to 28 U.S.C.

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<sup>1</sup> Complainant makes additional unsworn allegations in a supplement to his initial complaint. These allegations have been considered pursuant to Rule 5 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. I decline to identify a complaint based on these allegations because they are frivolous and merits-related.

§ 352(b)(1)(A)(ii) and (iii).

s/ Michael A. Chagares

Chief Judge

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ORDER

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(Filed: January 18, 2023)

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](http://www.ca3.uscourts.gov).

s/ Michael A. Chagares  
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