

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. Nos. 03-23-90068, 03-23-90069

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: December 4, 2023)

PRESENT: CHAGARES, Chief Judge.

This complaint is filed under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, against two United States District Judges (“Subject Judge I” and “Subject Judge II”). 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 has filed numerous pro se civil complaints in two District Courts over the course of this year. Four such complaints form the basis of this judicial misconduct proceeding, two assigned to Subject Judge I and two assigned to Subject Judge II.

In the matters before Subject Judge I, Complainant's motions to proceed in forma pauperis ("IFP") were denied after a determination that Complainant has sufficient funds to pay the filing fee. Complainant did not pay the filing fee in the first case; Complainant instead filed an appeal, which remains pending, and has continued to file motions in the District Court. Complainant paid the filing fee in the second case; the complaint was accepted for filing and the matter is pending before Subject Judge I.

Subject Judge II granted Complainant leave to proceed IFP in the two matters before him. Complainant moved to consolidate those complaints (and an additional complaint), and Subject Judge II dismissed the complaints without prejudice so that Complainant could file a new, consolidated complaint. Complainant appealed that ruling and the appeal remains pending. No consolidated complaint has been filed.

Complainant alleges in this complaint of judicial misconduct that Subject Judges I and II have denied Complainant "the right to a fair trial or a lawyer." Complainant further alleges that Subject Judge I incorrectly found that Complainant has sufficient assets and employment to pay the court filing fee.¹

Complainant clearly is attempting to collaterally challenge official judicial actions, including Subject Judge I's denial of IFP status and Subject Judge II's dismissal order.

¹ Complainant presents numerous additional claims concerning various private individuals who allegedly have engaged in discrimination, assault, insult, and other wrongdoing against her. None of these individuals are federal judges and therefore none of them are covered by the Judicial Conduct and Disability Act. See 28 U.S.C. §§ 351, 352(b)(1)(A)(i); Rule 1, Rules for Judicial-Conduct and Judicial-Disability Proceedings. These non-cognizable allegations will not be addressed in this opinion.

These allegations are merits related and 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.”). Complainant’s merits-related allegations 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.

The records in Complainant’s various proceedings have been examined and there is nothing to substantiate any claims that Subject Judges I or II have engaged in any form of judicial misconduct. Complainant’s allegations, to the extent they are cognizable, are thus 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.

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: December 4, 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.

s/ Michael A. Chagares
Chief Judge

Dated: December 4, 2023