

JUDICIAL COUNCIL OF THE THIRD CIRCUIT

J.C. No. 03-09-90075

IN RE: COMPLAINT OF JUDICIAL MISCONDUCT
OR DISABILITY

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

MEMORANDUM OPINION

(Filed: August 23, 2010)

PRESENT: McKEE, Chief Judge.

This is a complaint filed under the Judicial Conduct and Disability Act, 28 U.S.C. § 351, *et seq.*, against a retired United States District Judge (hereinafter "Subject Judge"). For the reasons discussed below, the above-captioned complaint proceeding will be concluded.¹

¹ Complainant is the subject of an order issued by United States Court of Appeals for the Third Circuit enjoining him from filing any appeal or petition for writ of mandamus/prohibition related to certain prior district court civil actions. Complainant has previously filed multiple complaints under the Judicial Conduct and Disability Act (J.C. Nos. 91-06, 91-07, 91-08, 91-09, 91-15, 91-16, 91-17, 91-18, 03-08-90077, 03-08-90079). Each of these complaints was dismissed as frivolous and/or merits-related. Complainant also filed another complaint, J.C. No. 03-09-90074, which was dismissed for the reasons stated in a separate opinion.

Complainant's allegations regarding the Subject Judge are dismissed as moot because the judge has retired. The retirement of a federal judge renders complaints under the Judicial Conduct and Disability Act against him or her moot because retired judges are no longer susceptible to discipline. See In re: Complaint of Judicial Misconduct, 10 F.3d 99, 100 (Judicial Council of the Third Circuit 1993) ("In effect, the retirement of a judge moots the complaint because there is no effective remedy under the statute.") (discussing 28 U.S.C. § 372(c)(3)(B), now 28 U.S.C. § 352(b)(2)). The remedies prescribed by the Act "were clearly aimed at 'preventing the recurrence of actions by that judicial officer that might impair the administration of justice,' . . . actions that could no longer be taken by a judge who is no longer exercising a judicial function." Id. (citation omitted). See also 28 U.S.C. § 352(b)(2) (the Chief Judge may conclude the proceeding if he or she finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events); Rule 11(e), Rules for Judicial-Conduct and Judicial-Disability Proceedings.²

For the foregoing reasons, this complaint proceeding is concluded under 28 U.S.C. § 352(b)(2) and Rule 11(e), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/Theodore A. McKee
Chief Judge

² In any event, Complainant's allegations are plainly frivolous and would otherwise be subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). See also Rule 11(c)(1)(C), Rules for Judicial-Conduct and Judicial-Disability Proceedings.