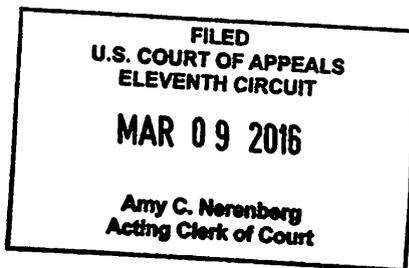


CONFIDENTIAL

**BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT**



Judicial Complaint No. 11-15-90172

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. District Judge for the U.S. District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States District Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

Background

The record shows that in August 2014 Complainant filed in state court a lawsuit against three defendants, raising various claims including a claim of mortgage fraud. In November 2015 two defendants removed the case to federal court. That same month, Complainant filed a motion for default judgment, and the two defendants filed a motion to dismiss the complaint. Complainant then filed a motion seeking to have the case remanded to state court and requesting other relief.

In December 2014 the Subject Judge denied the motion for default judgment, finding that no return of service appeared in the record and that a default judgment was not appropriate. Complainant filed a motion for reconsideration and a notice of appeal. The Subject Judge denied the motion for reconsideration, finding that Complainant’s efforts to serve the defendants were not sufficient. This Court later dismissed the appeal for lack of jurisdiction. Complainant then filed multiple motions seeking various types of relief, including a motion for summary judgment.

In July 2015 a magistrate judge issued an order and report in which he recommended that the defendants’ motion to dismiss be granted and that most of Complainant’s motions be denied. The magistrate judge found, among other things, that: (1) Complainant did not provide any legal basis for remanding the matter; (2) he did not properly serve the defendants; (3) the complaint was an impermissible shotgun pleading; (4) the matter should be dismissed with prejudice as to two defendants because there was

no set of facts that could be asserted that would state a cause of action; and (5) the complaint should be dismissed without prejudice as to the third defendant for failure to properly serve that defendant. Complainant filed objections to the magistrate judge's order and report.

In August 2015 the Subject Judge entered an order adopting the magistrate judge's report and recommendation, granting the defendants' motion to dismiss, and denying Complainant's motions. The order dismissed the action with prejudice as to two defendants and dismissed it without prejudice as to the third defendant. After that, Complainant filed, among other things, a motion for reconsideration in which he requested that the court cite case law that "overrule[d]" his citations.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant asks, "When does [the Subject Judge's] numerous 'wrong rulings' become so blatantly bad they prove corruption and/or legal incompetence?" Complainant also states that he requested the Subject Judge "to cite law that overrules [Complainant's] cites of state law . . . or, in the alternative to reconsider ruling and grant legal remedy of Remand with Prejudice proving that Judge Court is honorable (ethical) and competent." He attached various documents to his Complaint.

Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[a]n allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related." Id. The "Commentary on Rule 3" states in part:

Rule 3(h)(3)(A) tracks the Act, 28 U.S.C. § 352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations "[d]irectly related to the merits of a decision or procedural ruling." This exclusion preserves the independence of judges in the exercise of judicial power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge's ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

All of Complainant's allegations concern the substance of the Subject Judge's official actions, findings, and orders entered in the case and thus are "directly related to the merits of a decision or procedural ruling." JCDR 11(c)(1)(B). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the

Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge