

JUN 03 2016

David J. Smith
Clerk

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-16-90020

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ and _____ 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

_____ and _____ (“Complainants”) have 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 October 2015 Complainants filed a pro se civil rights
complaint against multiple defendants, raising various claims, and they filed a document
titled “Emergency Imminent Dangers” in which they requested an evidentiary hearing.
In early November 2015 the Subject Judge entered an order striking the complaint,
finding that the action could not proceed based on the complaint because: (1) the
complaint was not written on the required form; and (2) the alleged facts failed to clearly
identify which Complainants’ rights were allegedly violated by which incident. The
Subject Judge determined that each Complainant must draft his own complaint and
commence his own action, noting that each incarcerated Complainant was subject to
transfer to another prison and that a court should not interfere with the internal operations
of a prison.

Complainants then filed multiple motions seeking various types of relief,
including a motion for reconsideration and a “Petition for Enforcement of ‘Sovereignty’
Contract” On November 24, 2015, the Subject Judge entered an order denying
various motions and striking the “Emergency Imminent Dangers” document, generally
finding that Complainants did not establish a basis for the relief they sought. The next
day, Complainants filed a “petition” asking the court to enter an order preventing them
from being separated. That same day, the Subject Judge entered an order striking the
petition and an earlier filing for the reasons stated in previous orders.

In December 2015 Complainants filed a “Petition to Compel and Demand for Specific Performance from the Court” in which they sought the enforcement of certain “legal defenses.” Later that month, the Subject Judge entered an order dismissing the action without prejudice due to Complainants’ failure to file an amended complaint as ordered, and he denied the motion to compel as moot. Complainants filed a motion for reconsideration and other motions seeking different types of relief. The Subject Judge denied those motions, finding, among other things, that Complainants had “reasonable access to the courts.” Complainants filed two additional motions, which the Subject Judge ordered stricken.

Complaint

In their Complaint of Judicial Misconduct or Disability, Complainants generally allege that the Subject Judge was biased and prejudiced against them, discriminated against them, showed favoritism towards the government defendants, and invoked defenses for the defendants. Complainants allege that the Subject Judge did not read their filings and that he deliberately ignored the law, various facts and arguments, and the defendants’ alleged violations of their constitutional rights. They contend that the Subject Judge, without citing any authority, “fraudulently alleged” that they could not proceed jointly in the matter, and that he unlawfully struck their complaint “under this fraud.”

Complainants allege that the Subject Judge “with bias, prejudice and discrimination”: (1) dismissed their complaint without affording them “needed court access”; (2) denied enforcement of, or ignored, their “‘Sovereignty’ contract” and “‘Declaration of Status the Law of the Case’ contract”; (3) failed to enforce the United States Constitution and United States Supreme Court rulings; (4) ignored their “true and real-party ident[it]y”; (5) failed to accept all of the allegations in the complaint as true; (6) ignored the law of “sovereignty”; (7) “ignored the law prohibiting grievance of reprisal”; (8) “perjur[ed] his oath of office”; (9) abandoned his duties; and (10) committed a fraud upon them.

Complainants take issue with the Subject Judge’s finding that they had “reasonable” access to the court in light of various actions by the government. Complainants also assert that the Subject Judge suggested through his orders that the government defendants may attack and retaliate against them with impunity. They request that the Subject Judge be removed and that all of his prior orders be vacated, and they attached various documents to their 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.

To the extent Complainants’ allegations concern the substance of the Subject Judge’s findings and orders entered in the case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainants challenge, they provide no credible facts or evidence in support of their allegations that the Subject Judge was biased or prejudiced against them, discriminated against them, showed favoritism toward the defendants, or otherwise engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B), and the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge