

APR 17 2018

**CONFIDENTIAL**

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

**David J. Smith  
Clerk**

**Judicial Complaint No. 11-18-90001**

**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 September 2017 Complainant filed an emergency  
petition for writ of prohibition seeking to stop the execution of a writ of possession on his  
property. He also filed an emergency motion for a stay. The Subject Judge entered an  
order denying the petition and motion, finding that Complainant did not have a  
substantial likelihood of success on the merits. The order also noted that the claim  
appeared to be barred by the Rooker-Feldman doctrine. In October 2017 Complainant  
filed a motion for reconsideration, which the Subject Judge denied. After that,  
Complainant filed two motions to vacate, raising various arguments. The Subject Judge  
denied both motions, finding no basis to reconsider or vacate the earlier ruling.  
Complainant appealed, and this Court clerically dismissed the appeal in response to his  
motion for voluntary dismissal.

The record also shows that in September 2017 Complainant filed an emergency  
verified complaint to quiet title for real property again seeking to stop the execution of a  
writ of possession. The next day, the Subject Judge entered an order dismissing the  
complaint, again finding that Complainant did not have a substantial likelihood of  
success on the merits and noting that his claim appeared to be barred by the Rooker-  
Feldman doctrine. Complainant filed a motion for reconsideration, which the Subject  
Judge denied. He also filed a motion to vacate, which the Subject Judge denied, finding  
no basis for reconsidering the earlier ruling. Complainant appealed, and this Court later  
dismissed the appeal for lack of jurisdiction.

In November 2017 Complainant filed a petition for writ of habeas corpus alleging that a bank wrongfully foreclosed upon and fraudulently sold his property, in violation of his constitutional rights. The next day, the Subject Judge entered an order dismissing the petition, finding that Complainant was not a prisoner, was not in custody, and was not entitled to habeas relief. Complainant filed a motion for reconsideration, which the Subject Judge denied. In December 2017 Complainant filed a motion to vacate and an amended motion to vacate, which the Subject Judge construed as motions for reconsideration and denied. Complainant then filed a notice of appeal, which was construed as a motion for a certificate of appealability (COA), and a motion to proceed in forma pauperis (IFP) on appeal. The Subject Judge entered orders denying the motion for a COA and denying the IFP motion, finding that the appeal was frivolous. Complainant filed a motion for reconsideration and a motion to strike the motion for a COA, which the Subject Judge denied.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge “summarily dismissed, unjustly,” the three cases “to uphold a wrongful foreclosure committed by his friends,” in violation of JCDR 3(h)(1)(A), which provides that cognizable misconduct includes “using the judge’s office to obtain special treatment for friends or relatives.” Complainant alleges that the Subject Judge denied him access to the courts in violation of the United States Constitution by applying the wrong legal standard to dismiss Complainant’s “unrebutted” filings in the cases.

Complainant alleges that: (1) the Subject Judge’s “gross unjust actions . . . suggest conspiracy to obstruct federal judicial proceedings”; (2) he engaged in “Abuse of Office/Misconduct/Conspiracy to Obstruct”; and (3) his “motive for doing so was for status amongst his peers, protection of his fellow judicial brethren, and for personal and financial gain . . . .” Complainant asserts that the Subject Judge was not fair and impartial and that his actions have caused Complainant to suffer prejudice. He alleges that the Subject Judge “refuses to recuse or disqualify himself due to a special interest that has made the subject judge biased and prejudicial towards the complainant.”

Complainant also asserts that the Subject Judge is obstructing Complainant’s efforts to appeal by construing his notice of appeal as a motion for a COA in order to state that the appeal is frivolous. He requests that the Subject Judge be removed from public office “for Treason against the United States, and perjury of his oath of office, by violating his oath to support and defend the US Constitution.” He asserts that this Court should vacate the Subject Judge’s orders. He attached 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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders entered in the cases, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his allegations that the Subject Judge used his office to obtain special treatment for friends or relatives, was part of a conspiracy, was biased and prejudiced against Complainant, violated his oath of office, 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