

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90034

**FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT**

JUN 25 2021

**David J. Smith
Clerk**

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States District Judge _____ of the United States 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 June 2015 Complainant, through counsel, filed an amended complaint against multiple companies, raising claims of employment retaliation and breach of contract. After various proceedings, in April 2016 the defendants filed a “Motion to Enforce Settlement,” stating that the parties had reached a settlement agreement and that it should be enforced. Complainant’s counsel filed a “Motion to Establish Attorney’s Charging Lien” in which he requested that the court order the settlement amount be paid into the court’s registry and that he be permitted to collect his fee from the proceeds. Counsel also filed a motion to withdraw as Complainant’s attorney, which a magistrate judge granted.

The magistrate judge later issued a report recommending that the defendants’ Motion to Enforce Settlement be granted and that counsel’s Motion to Establish Attorney’s Charging Lien be granted in part and denied in part. Over Complainant’s objections, in January 2017 the Subject Judge entered an order adopting the report and recommendation, finding the parties had reached a settlement with certain terms and ordering the defendants to deposit the settlement proceeds in the court’s registry. After that, Complainant filed a notice of appeal and a motion to recuse the Subject Judge, arguing that she violated his due process rights by, among other things, refusing to provide him with her order and relying on filings from his former attorney. In August 2017 the Subject Judge entered an order denying the motion to recuse.

In June 2018 this Court issued an opinion in which it, among other things: (1) affirmed the Subject Judge's order granting the motion to enforce the settlement agreement; and (2) held that the Subject Judge did not abuse her discretion in directing that the settlement award be deposited with the court or in denying the motion to recuse. After that, Complainant filed in the district court, among other things, a motion to reopen the case and to disperse the settlement award to him.

In December 2018 the Subject Judge issued an order granting in part Complainant's motion, reopening the case, and referring the other matters in the motion to the magistrate judge for resolution. In February 2019 the magistrate judge issued a report recommending that a certain amount of the settlement award be disbursed to Complainant and the remainder be distributed to his former attorney. Complainant filed motions for the appointment of counsel and objections to the report and recommendation. In March 2019 the Subject Judge entered an order denying Complainant's motions for appointment of counsel and adopting the report and recommendation as the court's opinion.

In April 2021 Complainant filed a motion to reopen the case pursuant to Fed. R. Civ. P. 60(b)(6) and a motion for leave to file an amended complaint pursuant to Fed. R. Civ. P. 15(a)(2). In the motions, Complainant sought to raise a breach-of-contract claim against the defendant in connection with its motion to enforce the "altered" settlement agreement and argued that the court's orders had encouraged the defendants to continue to retaliate against him.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant asserts the Subject Judge engaged in "legal bigotry," meaning that she "believes and acts" as if due process, civil and criminal procedures, and laws do not apply to a party who is not an attorney. Complainant generally takes issue with the Subject Judge's January 2017 order finding the parties had reached a settlement agreement and this Court's June 2018 opinion affirming the Subject Judge's order. He asserts that the district and appellate courts "were so blinded by their legal bigotry" that they refused to address his arguments and "read in the new terms and provisions" of the defendants' "altered" settlement agreement.

Next, Complainant states the Subject Judge's legal bigotry was apparent when she refused to mail him a copy of her January 2017 order. He then alleges the Subject Judge permitted the defendants to retaliate against him by "rewarding" them with legally bigoted orders, and that the Subject Judge tried to put him and his brother in jail for telling the truth. He also takes issue with the actions of individuals other than the Subject Judge, and he attached documents to his Complaint.

Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, “Allegations Related to the Merits of a Decision or Procedural Ruling,” provides in part that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” The “Commentary on Rule 4” states in part:

Rule 4(b)(1) 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 authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling 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 in the above-described 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 Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge acted with an illicit or improper motive, was biased against Complainant or non-attorneys or in favor of 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**.

/s/ William H. Pryor Jr.

Chief Judge