

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 17 2021

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90122

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”).

As an initial matter, after Complainant filed her Complaint, she filed a supplemental statement. The filing of the supplemental statement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that, beginning in 2014, Complainant filed numerous lawsuits in the United States District Court for the _____ District of _____, and it appears the Subject Judge was assigned to all of those cases. In her Complaint of Judicial Misconduct or Disability, Complainant cites a case she initiated in February 2015 by filing a civil rights complaint against a company raising claims under the Employee Retirement Income Security Act (“ERISA”). The defendant filed a motion to dismiss. On June 8, 2015, a teleconference was held where Complainant’s claims and the nature of ERISA claims were discussed. The next month, the Subject Judge entered an order granting the motion to dismiss and dismissed all claims for lack of standing. Complainant appealed, and this Court later affirmed the dismissal of her complaint.

In another case, Complainant filed a lawsuit against a defendant in February 2016, and a few months later, the Subject Judge dismissed the complaint for failure to state a claim. In July 2016 the Subject Judge issued an order stating that: (1) the case was “one of a series of actions” brought by Complainant; (2) Complainant had filed 23 cases, all

but 3 of which had been dismissed on almost the same grounds, and that this Court had affirmed in all 8 cases it had decided; (3) at a hearing, Complainant stated she understood she would not receive any relief on her ERISA claims in the circuit, and the Subject Judge responded that Complainant was fully entitled to file her claims in any court; and (4) if Complainant filed another “carbon-copy” case in the court, the court would issue an order addressing Fed. R. Civ. P. 11 concerns, and that if the defendant prevailed on an issue that had previously been decided, the court would award fees to the defendant.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge “illegally requested” that all of Complainant’s cases be assigned to her chambers, which resulted in “direct, egregious prejudice in 34 judicial proceedings.” She states, “Cases are supposed to be randomly assigned specifically to avoid unfair, biased legal proceedings.”

Next, Complainant alleges that during the June 8, 2015, telephone conference, the Subject Judge “boldly told [Complainant] to stay out of her court room,” told her she “had no rights,” and “threatened to saddle [her] with legal fees if [she] continued to file lawsuits,” which she later imposed. Complainant states this conduct violated the “Judicial Code of Ethics.” Complainant requests, among other things, an investigation into the Subject Judge and that she not be assigned to any future cases.

Supplement

In her supplemental statement, Complainant asserts that I am obligated to recuse myself from this matter and that she has “experienced too many problems with proper protocols and procedures being followed” in this circuit.¹

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

¹ To the extent Complainant moves for my recusal from this matter, the motion is DENIED.

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 Complainant's cases, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge illegally requested that all of Complainant's cases be assigned to her, treated Complainant in a demonstrably egregious and hostile manner, 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