

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90123

IN THE MATTER OF A COMPLAINT FILED BY _____

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 21 2021

David J. Smith
Clerk

IN RE: The Complaint of _____ against United States Circuit Judge
_____ of the United States Court of Appeals for the _____ Circuit,
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 Circuit 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 his Complaint, he filed a supplemental statement. The filing of the supplemental statement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in March 2019 an individual filed a voluntary petition for Chapter 13 bankruptcy. In August 2019 Complainant filed an amended adversary complaint against the debtor and two companies, generally alleging the defendants were part of a criminal enterprise. After various proceedings, Complainant filed a second amended complaint, and in April 2020 the bankruptcy judge issued an order that, among other things, stated the court was abstaining from the adversary proceeding. Complainant then filed a notice of appeal, and in November 2020 the district court issued an order affirming the order abstaining from the adversary proceeding.

Complainant appealed to this Court, and in July 2021 a two-judge panel that did not include the Subject Judge issued an order dismissing the appeal for lack of jurisdiction to the extent Complainant challenged the Subject Judge’s decision to abstain and carrying with the case other issues Complainant raised on appeal. In November 2021 a panel of this Court that included the Subject Judge dismissed the appeal for lack of jurisdiction and denied as moot motions Complainant had filed. In the opinion, the panel noted that it could not review the bankruptcy court’s decision to abstain.

Previous Judicial Complaint

In July 2021 Complainant filed a Complaint of Judicial Misconduct or Disability against the bankruptcy judge from the above-described case, No. _____, alleging in part that the bankruptcy judge engaged in an improper *ex parte* communication by sending a certain email in connection with the case. In September 2021 the Subject Judge issued an order dismissing the complaint as directly related to the merits of the bankruptcy judge's decisions or procedural rulings, and as based on allegations lacking sufficient evidence to raise an inference that misconduct had occurred or a disability existed. Complainant filed a petition for review, and the Judicial Council Review Panel affirmed the dismissal of the complaint and denied the petition for review.

Instant Judicial Complaint

In the instant Complaint of Judicial Misconduct or Disability, Complainant states the Subject Judge was aware Complainant's previous judicial complaint was not based on the bankruptcy judge's rulings and that it was a "legal impossibility" for him to challenge an order issued by the bankruptcy judge. He alleges the Subject Judge: (1) "deliberately raised this issue to absolve [the bankruptcy judge] of her misconduct"; (2) lied, committed fraud, and deliberately misstated that he challenged an order to protect the bankruptcy judge and others and to cover up judicial misconduct; (3) engaged in a "continuing criminal enterprise" to ensure those who give political contributions get away with their crimes; and (4) aided a bank in committing crimes and fraud on the court.

Supplement

In his supplemental statement, Complainant asserts that the Subject Judge lied, committed fraud, was part of a "conspiracy to further destroy" Complainant for filing judicial complaints, and covered up the bankruptcy judge's misconduct. Complainant alleges the Subject Judge dismissed his appeal of the bankruptcy court's orders in retaliation for him having filed a judicial complaint against the bankruptcy judge, and he asserts that, in this Court's opinion, the Subject Judge deliberately misstated that he could not appeal the bankruptcy judge's abstention order when he was not appealing the decision to abstain. Finally, he states the Subject Judge was not permitted to rule on the appeal when he had "organized the cover-up of misconduct" by the Subject Judge.

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:

