

DEC 17 2021

David J. Smith
Clerk

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint Nos. 11-21-90125 and 11-21-90126

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate Judge _____ and 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 Magistrate Judge _____ and United States District Judge _____ (collectively, the “Subject Judges”), 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 2021 Complainant filed a “Request to the Clerk of the Court for Default Judgment,” which was docketed as a miscellaneous case. Judge _____ then entered an order finding the filing was a new complaint to be opened as a new civil action and ordering Complainant to pay the remainder of the filing fee. In the new civil action, Complainant filed a notice of appeal, and this Court later dismissed the appeal for lack of jurisdiction.

In September 2021 Judge _____ entered an order treating certain filings as objections to Judge _____ order and overruling the objections, denying the request for entry of default without prejudice, and directing Complainant to pay the remainder of the filing fee. Complainant filed a notice of appeal, and this Court later dismissed the appeal for lack of jurisdiction.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judges: (1) committed fraud in violation of 18 U.S.C. § 1001(a) by knowingly and willfully acting without authority; (2) are “foreign principal agents” who issued fraudulent orders in the absence of jurisdiction; and (3) violated Complainant’s

“Schedule Of Fees.” Complainant also asserts that Judge _____ fraudulently attempted to “turn a miscellaneous/commercial proceeding into a civil proceeding” and violated 18 U.S.C. § 242. He also takes issue with the actions of an individual who is not one of the Subject Judges.

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 Judges’ official actions, findings, rulings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judges’ 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 allegations that the Subject Judges 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