

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90127

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 23 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 2020 an amended judgment was entered in a federal district court sentencing Complainant to five years of supervised release, and in November 2020 jurisdiction over Complainant’s supervised release was transferred to the United States District Court for the _____ District of _____. In July 2021 Complainant filed a motion for early termination of his supervised release in which he argued, among other things, that supervision placed a disproportionate hardship on him due to his medical conditions and prevented him from pursuing religious activities.

The government filed a response in opposition to Complainant’s motion. In August 2021 Complainant filed a motion for extension of time to file a reply to the government’s response, stating he was scheduled to undergo two surgeries. On September 1, 2021, the Subject Judge entered an order by docket entry only denying Complainant’s motion for early termination of supervised release and denying his motion for extension as moot. The Subject Judge found: (1) termination of supervision was not warranted in the interests of justice; and (2) Complainant had not demonstrated “exceptionally good behavior” beyond compliance with the terms of his supervised release. The order stated the court would consider another request for early termination when Complainant had completed fifty percent of his term of supervision.

On the same day, Complainant filed multiple documents, including a reply to the government’s response and a supporting memorandum in which he described assaults he

had suffered while incarcerated, noted he had assisted the government in connection with the prosecution of another individual, stated his life had been threatened, and requested that his family's safety be considered. The next day, Complainant filed a notice of appeal as to the order denying his motion for early termination of his supervised release.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states he is a "surviving witness having survived four physical attacks on my life by both a federal official and inmates: and threats against me and my family by both staff and inmate while in BOP custody." Complainant then generally takes issue with the Subject Judge's order denying his motion for early termination of supervised release.

Complainant alleges the Subject Judge: (1) disregarded the safety of Complainant and his family and disregarded his accomplishments and achievements; (2) "intentionally ignored" evidence Complainant submitted concerning a "possible threat"; (3) decided the case without facts or evidence and failed to consider Complainant's motions; (4) disregarded the law and failed to provide adequate justification for the decision; (5) failed to give Complainant an opportunity to present arguments or evidence; and (6) violated his oath of office.

Complainant also alleges the Subject Judge deliberately denied him due process, equal protection of the law, and protection "because of my nationality and or because I am a Black-witness that [a]ffects numerous white federal personnel with prosecution" Finally, he appears to complain that certain docket entries were not assigned a docket number, 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 violated his oath of office, acted with an illicit or improper motive, 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