

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 17 2021

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90147

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 March 2018 Complainant filed a lawsuit against the multiple defendants raising discrimination claims. A couple of months later, he filed an amended complaint in which he stated: (1) he was charged with disorderly conduct and barred from entering a medical facility; (2) a search of court records showed that he was never charged and the ban was illegal; and (3) the purpose of the illegal ban was to prevent him from obtaining employment. The next month, the defendants filed a motion to dismiss the amended complaint. After various proceedings, in August 2018 the Subject Judge issued an order granting the defendants’ motion to dismiss, generally finding Complainant failed to establish he was entitled to relief on his claims.

In May 2019 Complainant filed a motion to reopen the case, contending he had newly discovered evidence establishing that the Subject Judge concealed court documents showing he was never charged with a crime. The Subject Judge denied the motion to reopen, finding the documents were not newly discovered and that, in any event, they would not have changed the disposition of the case. Complainant then filed additional motions to reopen and other motions, which the Subject Judge denied.

In June 2019 Complainant filed a fifth motion to reopen, arguing that counsel for the defendants committed fraud by arguing the amended complaint failed to state a claim. The Subject Judge entered an order denying the motion because Complainant failed to set

forth an appropriate reason why the case should be reopened, and the order also directed the clerk to revoke Complainant's permission to file documents electronically due to his abuse of the system and disregard of court orders. In July 2021 Complainant filed a motion to reopen arguing the newly discovered evidence showed that the case and three other cases were related to a certain active case. The Subject Judge ordered the motion stricken.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that in August 2021 he filed a motion seeking confirmation of the final judgment and a demand for notice of his appeal rights, but the motion was not entered on the docket. He alleges the Subject Judge: (1) deliberately delayed issuing a final judgment in the above-described case to deny his due process rights and right to appeal; (2) treated him in a demonstrably egregious and hostile manner by refusing to reopen his case and two other cases; and (3) covered up that he could not have been banned from his former place of employment. 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. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge deliberately delayed issuing a final judgment in his case, treated him in a demonstrably egregious and hostile manner, cover up matters, 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**.

A handwritten signature in black ink, reading "Chad S. Wilson". The signature is written in a cursive style with a large initial "C".

Acting Chief Judge