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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90142

ORDER

An individual has filed a Complaint against a United States district judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

Background

The record shows that in October 2020 Complainant filed an employment discrimination lawsuit against one defendant. He then filed multiple motions seeking various types of relief, and the defendant filed a motion to dismiss. In August 2021, a district judge who is not the Subject Judge dismissed the action with prejudice as frivolous. The district judge also imposed a pre-filing injunction on Complainant given his “incessant and frivolous litigation.” Complainant appealed, and this Court later affirmed.

The record shows that in March 2022 Complainant filed an action under the Federal Tort Claims Act alleging he had been improperly banned from a healthcare facility. He then filed multiple motions seeking various types of relief, including a motion to disqualify the assigned judges and two motions for summary judgment, and the district judge from the above-described case entered orders denying the motions. The defendant filed a motion to dismiss. In August 2022, the Subject Judge issued an order dismissing the action and finding Complainant violated the extant pre-filing injunction. The Subject Judge also modified the pre-filing injunction to clarify its scope.

The record shows that in July 2022 Complainant filed a civil-rights action against two defendants, alleging claims relating to his ban from the healthcare facility. He also filed a motion to disqualify the Subject Judge, alleging he was biased and had personal knowledge of disputed facts. In August 2022, the Subject Judge dismissed the case with prejudice as an attempted end run of the pre-filing injunction.

Complaint

Complainant alleges the Subject Judge committed fraud on the court and violated Canon 3A(2) of the Code of Conduct for United States Judges by dismissing one of the above-described cases when it was not assigned to him. He also alleges the Subject Judge improperly modified the pre-filing injunction issued by another judge in an effort to dismiss a case the injunction did not cover. He attached documents to his Complaint.

Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge improperly acted in a case not assigned to him, committed fraud on the court, violated the Code of Conduct for United States Judges, or otherwise engaged in

misconduct. Judicial-Conduct Rule 11(c)(1)(D); *see also Dietz v. Bouldin*, 136 S. Ct. 1885, 1891 (2016) (“[T]his Court has long recognized that a district court possesses inherent powers that are governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” (quotation omitted)); *United States v. Stone*, 411 F.2d 597, 598-99 (5th Cir. 1969) (“District judges may by rule, order or consent transfer cases between themselves. Each judge of a multi-district court has the same power and authority as each other judge. Moreover, District Judges have the inherent power to transfer cases from one to another for the expeditious administration of justice.” (citations omitted)). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge