

NOV 16 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90157

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 April 2022 Complainant filed a civil-rights action against multiple defendants. The Subject Judge then issued an order transferring the case to another district judge for all further proceedings pursuant to a local rule, and the case was given a new case number. The assigned district judge then issued several orders in the case, and the defendants filed a motion to dismiss the case. In August 2022, the Subject Judge dismissed the action and found that Complainant's claims violated a prefiling

injunction that had been issued against him. Complainant filed a motion for relief from judgment or order under Federal Rule of Civil Procedure 60(d)(3), and the motion was stricken per the prior dismissal order. Complainant also filed a notice of appeal, and his appeal was clerically dismissed for want of prosecution.

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 the above-described case when it was not assigned to him. He also alleges the Subject Judge failed to rule on his Rule 60 motion, which rendered his notice of appeal ineffective. 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 case, 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