

FEB 10 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90003

ORDER

An individual has filed a Complaint against a United States bankruptcy 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 June 2022 Complainant, an African American attorney, filed a voluntary petition for Chapter 13 bankruptcy. He then filed an adversary proceeding and an amended complaint seeking an injunction in connection with certain domestic-support obligations. In July 2022, the Subject Judge issued an order directing Complainant to show cause why the bankruptcy case should not be transferred to a different district, and Complainant filed a response.

In August 2022, the Subject Judge issued an order transferring the case to a different district. The order stated that Complainant listed a mailing address in a certain city, owned real property in a certain county, commenced the case with the intent of transferring it to the other district, had been admonished by three courts that he must return to state court before he could file a confirmable Chapter 13 plan, and did not object to the transfer of the case in his response to the show-cause order. Afterward, Complainant filed a motion to vacate the transfer order on the ground that it contained language that violated the Code of Conduct for United States Judges. The Subject Judge denied the motion to vacate.

Complaint

Complainant alleges the Subject Judge's order transferring the bankruptcy case to a different district "demonstrate[d] extreme hostility or judicial bias against" him and that the "likely reason" was because he "engaged in a highly-regarded form of legal advocacy called 'social engineering' which seeks to vindicate the fundamental rights of [Complainant] through explicating the historical and contemporary experiences of African American fathers, men and boys through the enforcement of 42 U.S.C. § 1983 against state actors, state courts, and state officials." (Emphasis omitted). He states his judicial complaint "involves the improper use of the federal judicial power to admonish, reprimand, sanction, deprecate and (or) dissuade a civil rights lawyer from, inter alia, engaging in 'social engineering' in order to vindicate the rights under" federal bankruptcy law. (Emphasis omitted).

Complainant alleges that the Subject Judge's transfer order "unfairly impugn[ed] the professionalism and integrity of an officer of the court" and "thereby create[d] a chilling of the First Amendment right to petition the court in order to redress historic grievances involving the fundamental rights of both [Complainant] as well as members of the African American community." He asserts the Subject Judge exhibited "[e]xtreme hostility toward (and extreme unfair prejudice) against an African American civil rights attorney and an officer of the court" and "[r]acially-discriminatory and (or) retaliatory treatment because of race and (or) raising civil rights claims"

Complainant contends that the transfer order contained "racial stereotype[s] and slanderous and demeaning imagery" with no factual basis, included false statements, sarcastic remarks, and "[h]umiliating descriptions" of Complainant, impugned his professional integrity, "unreasonably ridiculed or discredited" him by implying that he had no legitimate business presence in the district, misrepresented material facts concerning his residency, failed to consider the totality of the circumstances regarding his residency, violated of the Code of Conduct for United States Judges, violated his fundamental rights, and constituted "an abuse of judicial contempt power" and a "badge or incident of slavery." He complains he was not given an opportunity to clarify the issue of his residency, and he takes issue with the Subject Judge's order denying his motion to vacate the transfer order.

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 acted with an illicit or improper motive, was biased or partial, treated Complainant in a demonstrably egregious or hostile manner, discriminated or

retaliated against him, made misrepresentations, violated the Code of Conduct for United States Judges, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge