

DEC 14 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90144 and 11-23-90145

ORDER

An individual has filed a Complaint against a United States district judge and a United States magistrate 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 Complainant filed a civil complaint against multiple defendants, and he later filed an amended complaint and a second amended complaint. The defendants filed motions to dismiss the second amended complaint, and Complainant filed a motion for a continuance in which he requested additional time to locate an attorney and to address a medical issue. The Subject Magistrate Judge granted Complainant's motion for a continuance. After additional proceedings, Complainant filed motions for appointment of counsel and for extensions of time, and the Subject

Magistrate Judge denied the motions. The Subject District Judge then entered an order dismissing the second amended complaint due to Complainant's failure to prosecute the case, noting that he failed to comply with a certain local rule, failed to attend a hearing, and failed to timely respond to the motions to dismiss.

Complaint

Complainant states he "was constantly being admonished about" a local rule, but that no action was taken when an opposing party failed to comply with the rule. He contends "the court was not responding appropriately" to his pleadings and that a certain motion he filed was "ignored by the Judge." Complainant then complains that he was not provided with an attorney in the case, and he asserts that the Subject District Judge "showed no mercy" when he dismissed the case while Complainant was experiencing certain difficulties and was in the process of conferring with opposing parties. He also takes issue with the actions of individuals other than the Subject Judges.

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 Judges’ official actions, rulings, findings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judges’ 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 Judges engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge