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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90017

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.

As an initial matter, after Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that Complainant filed an amended complaint that alleged multiple defendants conspired to deny his civil rights. The Subject Judge later entered an order dismissing the case for lack of subject-matter jurisdiction, directing Complainant to pay monetary sanctions to the defendants, and permanently

enjoining him from filing legal documents or new actions in any forum without leave of court. This Court affirmed.

Afterward, the Subject Judge ordered that Complainant appear at a hearing to show cause why he should not be held in civil contempt for failing to pay sanctions to the defendants. The Subject Judge also entered orders enjoining Complainant from filing documents until the show-cause hearing and finding that he was not entitled to appeal certain orders. At the hearing, the Subject Judge stated the Complainant had a choice to make: either stop attempting to relitigate issues or face further sanctions, which “are going to get progressively worse.” He also stated, “But if you keep filing things, you’re going to have to start seeing me on a very regular basis, and neither one of us want to do that. You don’t want to see me. I don’t want to see you. And we can handle that very, very easily by you just stopping all of these filings.”

At the end of the hearing, the Subject Judge held Complainant in civil contempt and directed the United States Marshals Service to take him into custody until he paid a portion of the sanctions, which he did later that day. The Subject Judge then entered an order finding Complainant was not a credible witness and that he had the ability to pay the sanctions but failed or refused to do so, holding him in civil contempt, and directing that he pay the remaining balance in installments. This Court affirmed.

A defendant then filed a motion to hold Complainant in contempt for violating the anti-filing injunction by continuing to pursue claims against the defendant. At a hearing, the Subject Judge

announced his intention to proceed with criminal-contempt proceedings and provisionally appointed counsel to represent Complainant. There continues to be activity in the case.

Complaint

Complainant alleges the Subject Judge discriminated against him by verbally altering the pre-filing injunction to completely foreclose his access to the judiciary, “verbally threatened to punish [him] progressively and severely for presenting additional fraud claims” against a defendant, “openly showed favor to” a defendant’s attorney at a contempt hearing, used the Subject Judge’s office to obtain special treatment for friends or relatives by not allowing Complainant to respond to allegations at a criminal-contempt hearing, delayed the criminal-contempt proceedings to allow his attorney the government “to devise a guilty plea arrangement,” caused him “to suffer physical, mental, emotional, and financial injuries by improperly imposing the injunction orders from the beginning,” abused his power and authority by refusing to following the injunction orders, and discriminated against Complainant “for improper motives contrary to the judicial canon of ethics.” He attached documents to his Complaint.

Supplement

In his supplemental statement, Complainant reiterates his allegations, and he attached transcript extracts that he contends prove the Subject Judge “verbally threatened to impose harsh penalties for submitting any additional claims against [a defendant] contrary to the permanent injunction orders.”

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

biased, used his office to obtain special treatment for others, abused his power, 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