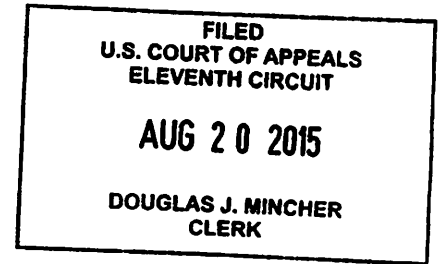


CONFIDENTIAL

**BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT**

Judicial Complaint No. 11-15-90082



IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. District Judge for the U.S. District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States District Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”). Complainant states he is a “_____” and has served as the “founder of the _____ for over 20 years.”

Background

The record shows that in February 1994 _____ filed an employment discrimination lawsuit against _____ (_____) and other defendants. _____ was represented by Complainant, and _____ was represented by _____ and another attorney. In May 1994 the Subject Judge dismissed claims against certain defendants. On June 8, 1994, _____ filed a motion for a protective order, which the Subject Judge granted. After that, _____ filed an amended complaint. In August 1994, the parties filed a stipulation of dismissal with prejudice, and which the Subject Judge granted. On August 8, 1994, _____ filed a motion and “request for direction.” The next day, Complainant filed a motion to vacate the order dismissing the case. On August 26, 1994, the Subject Judge found that _____ request for direction was moot and denied Complainant’s motion to vacate.

The record also shows that in April 1996 the _____ State Bar publicly reprimanded Complainant for violating a rule of professional conduct that proscribes threatening criminal prosecution in order to gain an advantage in a civil matter. The Public Reprimand states that on June 8, 1994, _____ filed a motion for a protective order alleging, among other things, that Complainant had “[i]ndicated a willingness to misuse information to extort money from the defendants.” The motion also alleged that Complainant had sent correspondence to the defendants’ counsel that contained threats and accusations. The Public Reprimand explains that the Subject Judge granted the

protective order and found that the language and tone of Complainant's letters suggested that he was engaging in extortion and/or blackmail of the defendants and the law firm representing them. The Subject Judge also found that Complainant's tactics of using threats to promote settlement were highly inappropriate and raised serious ethical questions, and that he had attempted to abuse discovery in a manner calculated to compel the defendants to settle the lawsuit irrespective of the merits of the plaintiff's claims.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant first sets out the following. "As a young lawyer with cerebral palsy," he represented _____ in her lawsuit against _____, who was represented by _____, the son of "U.S. Judge" _____. He alleges that _____ settled the case directly with _____ without Complainant in the "settlement loop," and Complainant then filed a "Motion for Instructions" with the Subject Judge. He states, "As an older person today, I realize that a federal judge writing an attack against me, using this ethics violation as it's basis and blaming me for 'using ethics as a weapon,' I was subsequently punished by the _____ State Bar."

Complainant states that "[n]o one at our bar ever suggested, as their duty should have dictated, that filing a motion for instructions when a federal judge's son settles a case directly with a client, could not in any way constitute any ethics violation on my part, no matter how poorly presented." Complainant then states, "At the end of the day, I committed no misconduct, a federal judge lent the prestige of her office to Judge _____ son, and an ethics cloud was illegally placed over my head. I have had many supreme court judges from many nations urge me to redress this fraud." Complainant states that "this judicial misconduct defrauded me in my profession first as attorney, and more recently it resurfaced when the _____ State Bar extorted me into acceptance of 'disability status.'"

Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[a]n allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related." *Id.* The "Commentary on Rule 3" states in part:

Rule 3(h)(3)(A) 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 power by ensuring that

the complaint procedure is not used to collaterally attack the substance of a judge's ruling. Any allegation that calls into question the correctness of an official action of a judge — without more — is merits-related.

To the extent Complainant's allegations concern the substance of the Subject Judge's findings and actions regarding Complainant's ethical behavior in the case, the allegations are directly related to the Subject Judge's decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his allegations that the Subject Judge lent the prestige of her office to benefit a federal judge's son, engaged in fraud, or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge