

MAY 02 2017

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-16-90079 through 11-16-90093

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. Bankruptcy Judges _____ and _____ of the U.S. Bankruptcy Court for the _____ District of _____; U.S. District Judge _____ of the U.S. District Court for the _____ District of _____; and U.S. Circuit Judges _____, _____, _____, _____, _____, _____, _____, _____, and _____ of the U.S. Court of Appeals for the Eleventh Circuit, 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 Bankruptcy Judges _____ and _____, United States District Judge _____, and United States Circuit Judges _____, _____, _____, _____, _____, _____, _____, _____, _____, _____, _____, and _____ (collectively, “the Subject Judges”), 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”). Judge _____ retired as a bankruptcy judge in _____.

Background

The record shows that in March 2002 in the United States District Court for the _____ District of _____, a group of plaintiffs filed a lawsuit against Complainant, _____ (“_____”), and others (“the _____ Case”). The district judge later held Complainant and _____ in contempt for failing to comply with court orders. In December 2003 the district judge entered a judgment in favor of the plaintiffs and against _____, Complainant, and another defendant in an amount over \$2 million. In June 2004 the district judge entered a judgment providing that the court would issue a warrant for Complainant’s arrest for contempt. A few years later, in December 2007 the district judge entered an “order of dismissal without prejudice” pursuant to Fed. R. Civ. P. 41(a)(2) upon the request of a plaintiff.

In March 2003 _____, through Complainant, filed a voluntary petition for Chapter 11 bankruptcy in the United States Bankruptcy Court for the _____ District of _____, and Judge _____ was the bankruptcy judge assigned to the case (“the 2003 Bankruptcy Case”). In April 2003 the U.S. Trustee and others filed motions to dismiss

the case with prejudice or, in the alternative, to convert it to a Chapter 7 case. In May 2003 the case was dismissed with prejudice.

In November 2005 the Securities and Exchange Commission (“SEC”) filed suit against Complainant and others in the United States District Court for the _____ District of _____. Complainant and other defendants filed a motion to quash a subpoena issued by the SEC. Later that month, Judge _____ entered an order denying the motion, finding the defendants did not have standing to object to the subpoena and holding that they were barred from collaterally attacking the order at issue. On appeal, a panel of this Court comprised of Judges _____, _____, and _____ affirmed the order denying the motion to quash. Complainant later filed various documents in the case as well as two notices of appeal. In December 2015, a panel of this Court made up of Judges _____ and _____ dismissed one appeal for lack of jurisdiction. Complainant filed a motion for reconsideration, which the panel denied. In the second appeal, a panel comprised of Judges _____, _____, and _____ dismissed the appeal for lack of jurisdiction.

The record shows that in April 2007 a jury in the U.S. District Court for the _____ District of _____ convicted _____ on 1 count each of securities fraud and conspiracy to commit securities fraud and wire fraud. In October 2007 Complainant was sentenced to a term of 97 months of imprisonment. In November 2007 in the U.S. District Court for the _____ District of _____, a jury convicted _____ on 3 counts of contempt of court. In 2009 he was sentenced to a total term of 97 months of imprisonment, 60 months of which were to be served consecutive to his other sentence.

In February 2013, Complainant filed an “Emergency Petition Pursuant to 28 USC § 2241,” in the United States District Court for the _____ District of _____. He named various defendants and challenged the conditions of his confinement. A magistrate judge later entered an order directing the clerk to style the case as a civil rights action and directing Complainant to pay the full filing fee or move to proceed in forma pauperis. In June 2013 the magistrate judge issued a report recommending that the action be dismissed for Complainant’s failure to comply with the court’s order. Over Complainant’s objections, Judge _____ adopted the report and recommendation, dismissed the action without prejudice, and denied Complainant’s motions for abuse of the court. Judge _____ ordered Complainant to post a \$10,000 bond to satisfy an award of sanctions for future frivolous filings, and stated that, until Complainant did so, all papers submitted by Complainant in any action were to be filed in the case file. Complainant then filed a number of documents. He also filed several appeals, which this Court dismissed for lack of jurisdiction for want of prosecution.

The record in this Court shows that in June 2015 Complainant filed a petition for writ of mandamus in which he argued that the bankruptcy court failed to docket a certain motion that he submitted in connection with the 2003 Bankruptcy Case. He then filed a motion to disqualify various judges. In September 2015 a two-judge panel comprised of

Judges _____ and _____ denied the motion to disqualify and directed the bankruptcy court to respond to the mandamus petition. After Judge _____ filed a response, in March 2016 a panel of this Court comprised of Judges _____, _____, and _____ denied Complainant's mandamus petition, generally holding that Complainant did not establish that he was entitled to relief. Complainant filed a motion for reconsideration, which the panel denied in September 2016.

In October 2015 Complainant filed another petition for writ of mandamus here seeking, among other things, to have the district court file and docket a certain motion and assign his case to a different district judge. In August 2016 a two-judge panel comprised of Judges _____ and _____ denied the petition, determining that Complainant had adequate alternative remedies to the relief sought.

Earlier Complaints

In October 2012 Complainant filed a Complaint of Judicial Misconduct against Judge _____, alleging he was part of a conspiracy and engaged in criminal misconduct that resulted in Complainant's incarceration. Then Chief Judge _____ dismissed that complaint because Judge _____ had only been acting on the merits of the pleadings before him, and because the allegations were not supported by evidence. Complainant filed a petition for review, and the Judicial Council Review Panel affirmed the dismissal in May 2013.

In May 2014 Complainant filed a Complaint of Judicial Misconduct or Disability against Judge _____, Judge _____, and Judge _____, raising various allegations pertaining to their actions in his cases. Chief Judge _____ dismissed that complaint because the judges had only been acting on the merits of the pleadings before them, and because it did not allege sufficient evidence as to Judges _____ and _____. Complainant filed a petition for review, and the Judicial Council Review Panel affirmed the dismissal in October 2014.

In August 2015 Complainant filed a Complaint of Judicial Misconduct or Disability against _____ judges, including Judges _____, _____, _____, _____, _____, _____, and _____, generally alleging that the judges were part of a conspiracy to cover up crimes and deny him access to the court. Acting Chief Judge _____ dismissed that complaint because the complained of judges were merely ruling on the merits of the cases before them and because the allegations lacked sufficient evidence to the extent it concerned Judges _____, _____, _____, _____, _____, _____, and _____. Complainant did not file a petition for review, and that complaint matter is closed.

Present Complaint

In the present Complaint of Judicial Misconduct or Disability, Complainant first asserts that on December 20, 2007, in the _____ Case, a “Final Judgment” was entered on the merits in his and _____ favor. He then alleges that since that time, the Judges against whom he files this Complaint “knowingly, willfully, deliberately, and maliciously violated the preclusive effects of the Final Judgment as part of an illegal plan and scheme orchestrated primarily by” Judges _____, _____, _____, _____, _____, and others “to cover up the criminal bankruptcy fraud and conspiracy committed by” Judge _____ and others in the 2003 Bankruptcy Case. Complainant alleges that the Subject Judges “organized a criminal enterprise, and used their official positions to viciously and maliciously violate the Final Judgment’s preclusive effects” to cover up bankruptcy fraud and obstruct other proceedings. He also alleges that the Judges concealed evidence of fraud and covered up Judges _____, _____, _____, and _____ bribery.

Next, Complainant alleges that Judges _____, _____, _____, _____, _____, and others conspired to deny him access to the courts and to obstruct certain “judicial pleadings” he filed. He alleges that Judges _____, _____, _____, and _____ conspired with this Court’s clerk to “hide, destroy, suppress, and conceal” petitions that he submitted to this Court, and he asserts that many of the Subject Judges conspired to obstruct justice and violate court orders. Complainant then asserts that Judge _____ has a “severe medical condition of Alzheimer[?]s disease, and other mental illnesses (schizophrenia and dementia)” and is “medically disqualified to serve as a federal judge.” He also seems to allege that Judge _____ accepted bribes in connection with his response to Complainant’s mandamus petition.

Discussion

Judge _____

Rule 11(e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides, “The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible.” With respect to this rule, the “Commentary on Rule 11” states in part, “Rule 11(e) implements Section 352(b)(2) of the Act, which permits the chief judge to ‘conclude the proceeding’ if ‘action on the complaint is no longer necessary because of intervening events,’ such as a resignation from judicial office.” Judge _____ has now retired from the federal bench.

As to Judge _____, and in light of her retirement, “intervening events render some or all of the allegations moot or make remedial action impossible,” JCDR 11(e). Pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(2) and Rule 11(e) of the Rules for

