

AUG 18 2017

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-17-90009

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”).

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

Background

The record shows that in December 2016 Complainant filed in a federal district court in _____ a complaint against a police department. The case was transferred to the United States District Court for the _____ District of _____. Later in December 2016, the Subject Judge entered an order dismissing the complaint without prejudice as frivolous and for failure to state a claim. A separate judgment was entered dismissing the case and denying any pending motions as moot.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that his complaint against the Subject Judge “is based on Judicial Procedural Abandonment.” He alleges that the Subject Judge abandoned “established judicial process” and the “rules of procedure,” “did as he pleased without any explanation,” and engaged in “illegal” and “rogue” actions. Complainant asserts that the Subject Judge violated multiple canons of the Code of Conduct for United States Judges. He then alleges the Subject Judge: (1) used his office to obtain special treatment for friends or relatives; (2) accepted bribes, gifts, or other personal favors related to the judicial office; (3) had improper discussions

with parties or counsel for one side in a case; (4) treated Complainant in a demonstrably egregious and hostile manner; (5) engaged in partisan political activity; and (6) retaliated against complainants, witnesses, or others for their participation in the Complaint of Judicial Misconduct or Disability process.

Complainant asserts that the Subject Judge's "actions are acts of white supremacy." He states the Subject Judge gave him "the metaphoric middle finger" when he issued an order dismissing the case. Complainant contends that the Subject Judge was influenced by various government officials and the President of the United States, and that the Subject Judge acted to "maintain" the President's "illegal scheme," which was a crime. Complainant alleges that the Subject Judge's "intent was to exercise power & authority over [Complainant] & abandon the law, for an outcome that fit his & those who illegally influenced him, racist & bigoted mentality." Finally, Complainant alleges that a certain individual "may have illegally given [the Subject Judge] cash," and he states he is "sure [the Subject Judge] took a great deal of illegal cash to do what he did" Complainant attached various documents to his Complaint.

Supplement

In Complainant's supplemental statement, he states that communication sent to him from the court was "illegally compromised," and he notes that he filed a Complaint of Judicial Misconduct or Disability in another court.

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 official actions, findings, and order entered in the case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings.

Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge 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