

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

SEP 19 2017

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint No. 11-17-90046**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

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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.

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**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 nine supplemental statements. The filing of those supplemental statements is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in October 2015 Complainant filed a civil rights action against multiple defendants, and he later filed an amended complaint. In May 2016 the Subject Judge dismissed Complainant’s amended complaint without prejudice, finding that he had failed to properly serve the defendants and that the complaint was an improper “shotgun pleading.” The order directed Complainant to file a second amended complaint by May 20, 2016. In early June 2016, the Subject Judge entered an order dismissing the case because Complainant failed to file an amended complaint by the deadline.

On the same day the case was dismissed, Complainant filed a motion to amend his complaint. Later that month, the Subject Judge denied the motion, finding that Complainant did not comply with the deadline for filing an amended complaint and, in any event, he failed to state a claim for relief. Complainant appealed, and in December 2016 this Court clerically dismissed the appeal for want of prosecution because he failed to pay the filing and docketing fees within the required time.

The record also shows that in March 2017 Complainant filed another lawsuit against multiple defendants, and he later filed documents that were construed as motions for medical records.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant generally takes issue with the Subject Judge's findings and orders in his case, noting that he paid over \$1,000 to serve the defendants. He asserts that the Subject Judge stated his case "was not important," and he claims that she should return the filing and service fees that he paid. Complainant states that the Subject Judge is a "liar and hypocrite," "brings dishonor to all the soldiers," and "chose to make the defendants federal employees and dismissed the case without properly assessing the case and taking government money under false pretenses." Complainant then discusses various matters that do not appear to pertain to the Subject Judge. He attached various documents to his Complaint. In one document, he states that the Subject Judge is "corrupted" and that she confiscated certain medical records.

### Supplements

After he filed his Complaint, Complainant filed multiple supplemental statements in which he generally reiterates his allegations, expresses his dissatisfaction with the Subject Judge's findings and orders in the case, and alleges that she conspired to violate his civil rights. Complainant also attached various documents and addressed various matters that do not appear to pertain to the Subject Judge.

### 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 orders 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 with which Complainant takes issue, 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**.



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Chief Judge