

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 06 2018

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-18-90100 and 11-18-90101

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. Magistrate Judge _____
and U.S. District Judge _____ of 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 Magistrate Judge _____ and United States District Judge _____ (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”).

Background

The record shows that in February 2018 Complainant filed a civil rights action against multiple defendants and a motion to proceed in forma pauperis (IFP). Judge _____ issued an order finding that Complainant’s filings were deficient and directing him to file an amended complaint and to either file a complete IFP motion or pay the full filing fee. After that, Complainant filed an amended complaint. In April 2018 Judge _____ issued an order directing Complainant to show cause why the case should not be dismissed due to his failure to file a complete IFP motion or pay the filing fee. Complainant filed a document that was docketed as a response to the show cause order.

In May 2018 Judge _____ issued a report recommending that the case be dismissed due to Complainant’s failure to file a complete IFP motion or pay the filing fee. Over Complainant’s objections, in June 2018 Judge _____ entered an order adopting the report and recommendation and dismissing the case without prejudice due to Complainant’s failure to prosecute and/or failure to comply with an order of the court. Complainant’s appeal was clerically dismissed for want of prosecution.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant appears to allege that the Subject Judges engaged in misconduct in connection with the above-described case. He cites, among other things, Canon 3 of the Code of Conduct for United States Judges and what appear to be multiple subsections of JCDR 3(h), which defines "cognizable misconduct."

Discussion

Complainant provides no credible facts or evidence in support of his claims that the Subject Judges engaged in misconduct.

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 that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(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