

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

FEB 20 2019

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-18-90136

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, former 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 former 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”). The Subject Judge retired in _____.

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 2003 Complainant filed a lawsuit against multiple defendants, and the next month, he filed a motion to consolidate the case with another case. The Subject Judge granted the motion and consolidated the case with another case involving common questions of law and fact. After that, the Subject Judge entered an order that, among other things, directed Complainant to effect service of process on the defendants. In April 2004 the Subject Judge dismissed the case without prejudice due to Complainant’s failure to comply with the court’s order. Complainant appealed, and this Court later dismissed the appeal for lack of jurisdiction.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant cites various cases. He also attached various documents. However, he raises no discernable allegations against the Subject Judge.

Supplement

Complainant's supplemental statement consists of various documents.

Discussion

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."

In light of the Subject Judge's retirement, "intervening events render some or all of the allegations moot or make remedial action impossible," JCDR 11(e). For this reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(2) and Rule 11(e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint proceeding is **CONCLUDED**.



Chief Judge