

MAY 06 2020

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint Nos. 11-19-90113 and 11-19-90114**

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

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IN RE: The Complaint of \_\_\_\_\_ against United States Magistrate Judge \_\_\_\_\_ and United States District Judge \_\_\_\_\_ of the United States 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 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 November 2015 Complainant filed an amended 42 U.S.C. § 1983 complaint against multiple defendants, raising claims of false arrest, excessive force, and malicious prosecution stemming from his arrest for allegedly violating the conditions of his release. After various proceedings, Complainant filed a motion for partial summary judgment and two police officer defendants filed a motion for summary judgment.

On March 27, 2018, a district judge who is not one of the Subject Judges entered an order denying Complainant’s motion and granting in part and denying in part the defendants’ motion. The court found that the two officers were not entitled to qualified immunity on Complainant’s excessive force claims. In considering whether the force used was reasonable, the court stated that nothing in the record indicated that Complainant was in the process of committing a dangerous or violent crime and that the crime at issue was purported alcohol intoxication in violation of the terms of his release. The court also determined that Complainant’s claims of false arrest and malicious prosecution were barred by Heck v. Humphrey, 512 U.S. 477 (1994). In a later order, the court clarified that it had not made a finding of fact in the March 2018 order that Complainant had not committed a crime.

The record also shows that in January 2018 Complainant filed an amended 28 U.S.C. § 2254 petition for writ of habeas corpus, arguing in part that, while he was on conditional release: (1) his probation officer and two police officers knowingly arrested him without a warrant or probable cause; and (2) his probation officer fabricated evidence to cause him to be found in violation of his conditional release based on a false allegation of him being under the influence of alcohol.

The next month, Judge \_\_\_\_\_ issued an order stating that Complainant's § 2254 petition challenged the state's revocation of his probation and directed the respondent to file a response. Complainant then filed a motion for release and for judicial notice, generally arguing that evidence he had submitted established that he was illegally arrested based on fabricated evidence. He also filed a separate motion to take judicial notice of newly discovered evidence.

On March 27, 2018, Judge \_\_\_\_\_ issued an order granting Complainant's motions solely to the extent that the court reviewed and considered the exhibits attached to the motions, and the order otherwise denied the motions. Judge \_\_\_\_\_ found: (1) Complainant's exhibits did not establish that he was entitled to relief; (2) he had not demonstrated a high probability of success on his claims; and (3) in any event, he had not shown his immediate release was necessary to preserve the effectiveness of the relief sought. After that, Complainant filed a motion for reconsideration or to alter or amend judgement, as well as a notice of appeal. This Court later denied Complainant a certificate of appealability.

In May 2018 Complainant filed in the district court a motion to disqualify the Subject Judges in which he generally argued they lacked impartiality, had a personal bias against him, ignored evidence he submitted, and violated his due process rights. Later that month, Judge \_\_\_\_\_ entered an order denying the motion to disqualify without prejudice to Complainant refiling a motion that complied with a local rule on page limits. The next month, Judge \_\_\_\_\_ entered an order denying Complainant's motion to alter or amend, finding that it failed to show good cause to alter or amend the March 27, 2018 order.

In October 2018 Complainant filed, among other things, a "Motion for Court Adjudication on Actual Case and Controversy . . ." in which he requested that the court take judicial notice of an allegedly unconstitutional warrantless arrest policy by the state Department of Corrections. Judge \_\_\_\_\_ entered an order striking the motion for failure to comply with the local rule on page limits. In November 2018 Complainant filed a motion challenging the constitutionality of a state statute, and Judge \_\_\_\_\_ later dismissed the motion because declaratory relief was not available to Complainant in the habeas proceeding. In October 2019 Complainant filed notice that he had been released from custody in February 2019.

## Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judges knowingly and with an improper motive conspired with each other, state officials, and others: (1) to make inconsistent and “negative” rulings to assist the state and its agencies and to undermine his constitutional rights; (2) to intentionally misconstrue his unambiguous habeas claims as claims challenging the revocation of his probation; (3) to rule against him based on personal bias because they feel he is a criminal; (4) to intentionally overlook material evidence and case law to “sabotage” his case; and (5) to “maintain” the state Department of Corrections’ unconstitutional warrantless arrest policy and unconstitutional state statutes.

Complainant generally argues that he submitted evidence indisputably demonstrating that his arrest was illegal, but the Subject Judges conspired to intentionally ignore the evidence to prevent him from obtaining relief. He alleges that Judge \_\_\_\_\_ knowingly made a “one-sided fact-finding determination” in her order denying his motion for release, which caused him to be denied summary judgment in his § 1983 action. He also asserts that Judge \_\_\_\_\_ order contradicted the order issued on the same day in the § 1983 action, which he asserts stated that nothing in the record showed that he was committing a crime. He alleges that Judge \_\_\_\_\_ was part of a “monetary conspiracy” with state officials.

Complainant contends that Judge \_\_\_\_\_ “took advantage” of his lack of education and legal knowledge by “procedurally” denying his motion to disqualify, and he asserts that she refused to disqualify herself because she was conspiring with others to undermine his case. He also contends that Judge \_\_\_\_\_ conspired to arbitrarily and capriciously strike his Motion for Court Adjudication. Complainant asserts that his habeas case remains pending even after his release from custody because Judge \_\_\_\_\_ has an interest in the outcome of his § 1983 action and is attempting to “hinder” that action. Finally, Complainant states he is not challenging the merits of the Subject Judges’ rulings. He attached documents to his Complaint.

## Discussion

Complainant provides no credible facts or evidence in support of his claims that the Subject Judges acted with an illicit or improper motive, were part of a conspiracy, had a personal bias against him, were not otherwise impartial, took advantage of his lack of education, or otherwise 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**.

A handwritten signature in black ink, appearing to read "Ed Lamer", written over a horizontal line.

Chief Judge