

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-19-90117

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

MAY 06 2020

David J. Smith
Clerk

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against 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.

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”).

Background

The record shows that in March 2017 Complainant filed a lawsuit against a corporation seeking insurance proceeds, and he moved to proceed in forma pauperis. Later that month, the Subject Judge entered an order dismissing the case without prejudice for lack of subject matter jurisdiction. The next month, Complainant filed a motion to reopen the case, arguing that he had been denied due process because there was no written notice of intent to dismiss the case. The Subject Judge denied the motion to reopen.

After that, Complainant filed a motion asking when a hearing would be scheduled, and the Subject Judge denied the motion, noting that the case had been dismissed. In September 2018 Complainant filed a motion again seeking to reopen the case, and the Subject Judge denied the motion. Complainant appealed, and this Court later dismissed the appeal for want of prosecution.

Present Complaint

In the present Complaint of Judicial Misconduct or Disability, Complainant asserts that the Subject Judge dismissed his case “without Just Cause or Grounds to support” the decision. He states that the Subject Judge “did not investigate” whether the clerk’s office had informed him about required fees. He states that he filed a motion to give the Subject

Judge a chance to correct the “Unwarranted Decision,” but she “felt compelled to express arrogant and boldness” and ignored his arguments. Complainant asserts that the Subject Judge’s actions violated his due process rights and his right to file in court proceedings. He seeks the Subject Judge’s removal and the reopening of his case. He attached documents to his Complaint.

Earlier Complaint

In June 2017 Complainant filed a Complaint of Judicial Misconduct or Disability against the Subject Judge raising the same allegations. (Complaint No. _____). In November 2017 that Complaint was dismissed as merits-related and based on allegations lacking sufficient evidence, and the Judicial Council affirmed the dismissal in February 2018.

Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, “Allegations Related to the Merits of a Decision or Procedural Ruling,” provides in part that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.”

Furthermore, when a complaint repeats allegations of a previously dismissed complaint, it is appropriate to dismiss those repeated allegations and address only allegations that have not previously been considered. See JCDR 11(c)(2).

All of Complainant’s claims have already been considered in connection with his earlier Complaint of Judicial Misconduct or Disability.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge