

CONFIDENTIAL

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

Judicial Complaint Nos. 11-19-90146 and 11-19-90147

IN THE MATTER OF A COMPLAINT FILED BY _____

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

MAY 13 2020

David J. Smith
Clerk

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.

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 January 2008 a federal grand jury issued a superseding indictment charging _____ with multiple crimes. Following a trial, a jury found _____ guilty on certain charges and not guilty on others. In June 2008 Judge _____ sentenced _____ to a total term of 130 months of imprisonment.

After additional proceedings, in September 2019 Complainant filed in the case a “Citizens Jurisdictional Challenge” in which he asserted that the federal government did not have “territorial jurisdiction” inside the states unless one or both clauses in the Tenth Amendment to the United States Constitution are met. He also: (1) argued that _____ convictions were invalid because of constitutional violations; (2) asserted that Judge _____ had committed “Treasonous Acts”; and (3) sought the dismissal of the case for lack of territorial jurisdiction. In October 2019 Judge _____ issued an order denying the Citizens Jurisdictional Challenge for lack of jurisdiction, determining that Complainant lacked standing to seek relief in the case.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judges violated their oaths of office, 18 U.S.C. § 241 (conspiracy against rights),

18 U.S.C. § 242 (deprivation of rights under color of law), and his “legal rights” to challenge the jurisdiction of all courts. Complainant attached the September 2019 Citizens Jurisdictional Challenge that he filed in _____ case.

Complainant also attached a September 2019 letter addressed to Judge _____ in which he: (1) sought Judge _____ recusal from the case based on a conflict of interest, alleging that Judge _____ was Judge _____ law clerk at the time the case was assigned to Judge _____ and that he had prior knowledge of the case; and (2) stated that Judge _____ “words are strongly indicative that he is racially motivated” because he compared _____ to another man who had been convicted of various offenses. Finally, Complainant attached Judge _____ order denying the Citizens Jurisdictional Challenge.

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.” The “Commentary on Rule 4” states in part:

Rule 4(b)(1) 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 authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related.

To the extent Complainant’s allegations concern the substance of the Subject Judges’ official actions, rulings, findings, and orders in _____ case, the allegations are directly related to the merits of the Subject Judges’ 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 Judges violated their oaths of office, committed crimes, had a conflict of interest, were racially biased, or otherwise 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**.



Chief Judge