

CONFIDENTIAL

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

MAY 19 2020

David J. Smith  
Clerk

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint Nos. 11-20-90012 through 11-20-90015

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 \_\_\_\_\_ and United States Circuit Judges \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of the United States Court of Appeals for the \_\_\_\_\_ Circuit, 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 \_\_\_\_\_ and United States Circuit Judges \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (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 2011 Complainant filed an employment discrimination lawsuit against a company, and the defendant later filed a motion to dismiss the complaint. In February 2012 Judge \_\_\_\_\_ entered an order granting the motion to dismiss, noting that Complainant had filed two previous lawsuits arising out the same nucleus of operative facts and finding that the complaint was barred by the doctrine of res judicata. The order also permanently enjoined Complainant from filing any more complaints stemming from the same set of facts. Complainant appealed, and a panel of this Court that did not include any of the Subject Judges affirmed the dismissal of his complaint.

The record also shows that in October 2013 Complainant filed an amended complaint for damages under the Federal Tort Claims Act, alleging that a deputy clerk had mishandled his documents in an earlier case. The defendant filed a motion to dismiss, which Judge \_\_\_\_\_ granted, finding that the deputy clerk was entitled to quasi-judicial immunity and the court lacked subject matter jurisdiction over the case. Complainant appealed and moved to proceed in forma pauperis (IFP) on appeal. Judge \_\_\_\_\_ denied the IFP motion, finding that the appeal was not taken in good faith.

In January 2015 a panel composed of Judges \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ issued an opinion affirming the dismissal of Complainant’s complaint. The panel determined that the district court erred in dismissing the case based on the deputy clerk’s quasi-judicial immunity, but nevertheless held that Complainant failed to exhaust his claim within the time allowed. The panel also held that the district judge did not plainly err in failing to recuse himself sua sponte.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the circuit Subject Judges issued an “original opinion” that violated his civil rights and his rights under 18 U.S.C. §§ 241 (Conspiracy against rights) and 242 (Deprivation of rights under color of law). He asserts that the opinion stated, “a reasonable person should have known not to go to U.S. Supreme Court,” when the law states that all individuals have the right to access the United States Supreme Court. He contends that a certain opinion was “reissued,” which constituted misconduct. He appears to complain that Judge \_\_\_\_\_ denied his IFP motion, alleges that Judge \_\_\_\_\_ had an “improper discussion,” and complains that Judge \_\_\_\_\_ failed to recuse himself. Finally, Complainant raises allegations against an individual who is not one of the Subject Judges.

### 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, orders, and opinions in Complainant’s cases and appeal, 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 Judge \_\_\_\_\_ had an improper discussion or that any of the Subject Judges 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**.

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

Chief Judge