

CONFIDENTIAL

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

AUG 31 2020

David J. Smith  
Clerk

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint Nos. 11-20-90091 through 11-20-90093

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

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IN RE: The Complaint of \_\_\_\_\_ against United States District Judges  
\_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ 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 District 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 2017 Complainant, who was then an attorney, filed a lawsuit against the State Bar of \_\_\_\_\_ and other defendants, seeking injunctive relief, a declaratory judgment, and damages in connection with ongoing disciplinary proceedings against him. Judge \_\_\_\_\_ then issued an order: (1) finding the complaint was “the quintessential shotgun pleading”; (2) noting the court was unable to discern what his claims were or the basis for the court’s subject-matter jurisdiction; and (3) directing him to file an amended complaint by December 4, 2017. A few days later, Complainant filed motions seeking the appointment of counsel. In December 2017 the defendants filed a motion to dismiss the case.

Later that month, Complainant filed a “Notice of Filing of Judicial Complaint” against Judge \_\_\_\_\_. He also filed a motion to disqualify Judge \_\_\_\_\_, arguing he was biased, was partial, had a conflict of interest, and had already formed an opinion on the merits of the case. Judge \_\_\_\_\_ then entered an order denying the motion to disqualify, finding the motion failed on procedural grounds, that no reasonable observer would question his impartiality, and that he had no personal knowledge of disputed facts before him. Judge \_\_\_\_\_ noted he had been assigned to six previous cases in which Complainant was involved, and that all of those cases had been dismissed. Judge \_\_\_\_\_ also entered an order denying Complainant’s motions for appointment of counsel.

On December 31, 2017, Complainant filed an amended complaint, and several days later, he filed a second amended complaint. After that, the defendants filed a renewed motion to dismiss the second amended complaint and a motion to stay discovery pending resolution of the motion to dismiss. In February 2018 Judge \_\_\_\_\_ entered an order granting the motion to stay.

The same month, Judge \_\_\_\_\_ issued an order recusing himself from the case. The case was reassigned to a district judge who is not one of the Subject Judges, and that judge also entered an order recusing herself from the case. The case was then reassigned to Judge \_\_\_\_\_, and in April 2018 Judge \_\_\_\_\_ entered an order recusing herself pursuant to Canon 3C of the Code of Conduct for United States Judges. The case was then reassigned to Judge \_\_\_\_\_. After that, Complainant filed, among other things, a motion to set aside a March 2018 Supreme Court of \_\_\_\_\_ order disbarring him from the practice of law in the state, raising various challenges to the order.

In May 2018 Judge \_\_\_\_\_ entered an order granting the defendants' renewed motion to dismiss, dismissing Complainant's complaint as amended, and denying other motions as moot. Judge \_\_\_\_\_ found that: (1) the complaint was an improper shotgun pleading and Complainant failed to comply with the court's order directing him to replead his complaint; (2) the request for injunctive relief was moot; and (3) the Rooker-Feldman doctrine prohibited review of the state supreme court's disbarment decision. In June 2018 Judge \_\_\_\_\_ entered an order denying the motion to set aside the disbarment order, again stating the Rooker-Feldman doctrine prohibited review of that decision.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant first asserts that, in prior cases that Complainant either filed or were removed to federal court, Judge \_\_\_\_\_: (1) failed to faithfully apply the law, facts, and evidence; (2) became familiar with facts of the above-described case and formed an opinion adverse to Complainant; (3) demonstrated bias; and (4) committed misconduct, including by improperly and without justification sealing certain matters. Complainant asserts this called into question Judge \_\_\_\_\_ ability to be fair and impartial and required his disqualification in the above-described case. With respect to those previous cases, Complainant alleges Judge \_\_\_\_\_: (1) obstructed his efforts to advance a case; (2) abused his power and authority by ordering a case sealed even to protect another judge's reputation or legacy; (3) dismissed cases as frivolous despite that they were not frivolous; and (4) knew Complainant was entitled to relief but chose not to grant him relief, which was prejudicial to the administration of justice.

Complainant then alleges that, in the above-described case, Judge \_\_\_\_\_: (1) failed to disqualify himself and took various actions when he was disqualified; (2) failed to consider Complainant's request for injunctive and equitable relief when there was sufficient evidence of bad faith, fraud, and constitutional deprivations on the part of the State Bar; (3) denied Complainant's request for appointment of counsel without justification and with prejudice; (4) failed to set deadlines; and (5) made statements in his order denying the motion to disqualify concerning the merits of, or deficiencies in, Complainant's previous cases that were not true.

Next, Complainant states that the case would not have been assigned to Judge \_\_\_\_\_ if she had a conflict of interest and that she presided over the case "long enough so that her recusal could not arguable be attributable to a conflict of interest." "Instead," Complainant asserts, an "unknown individual" approached Judge \_\_\_\_\_ and asked her to rule in favor of the State Bar, which Complainant "surmise[d] she refused to do (as she should have done)," and then voluntarily recused from the case. He states that, to the best of his recollection, Judge \_\_\_\_\_ recusal order failed to state a reason for her recusal.

Complainant then states he "theorize[s]" that Judge \_\_\_\_\_ was "committed to a fixed order in advance in favor of the State Bar, which is the only logical explanation [he] can come up with." He contends that he presented extensive evidence of fraud on the court and bad faith, but Judge \_\_\_\_\_ nevertheless granted the defendants' motion to dismiss, which was arbitrary, a gross abuse of discretion, violated the Code of Conduct for United States Judges, and departed from prevailing law, local rules, and constitutional provisions. Complainant argues the cases Judge \_\_\_\_\_ cited in support of the finding that the Rooker-Feldman doctrine applied were not applicable because, among other things, he was not disbarred at the time he filed his lawsuit.

Complainant states he believes Judge \_\_\_\_\_ colluded and conspired with others to cause the state supreme court to issue its disbarment ruling while the instant case was pending in order to justify the decision to grant the defendants' motion to dismiss. He then asserts that Judge \_\_\_\_\_ stated that he did not file an amendment to his complaint, which was not true and constituted fraud on the court and the filing of a fraudulent document with the court. He notes that he filed an amended complaint after the deadline for doing so had expired.

Complainant states that the Subject Judges "all played a role" in covering up fraudulent acts by the State Bar and acted in concert to prejudice his case and to assure the case would be assigned to Judge \_\_\_\_\_, who would rule in favor of the State Bar regardless of the facts, law, and evidence. Complainant states there is a "glaring appearance of impropriety" and that, in light of the Subject Judges' handling of his case, "suspicious recusals," manipulation of the facts and law resulting in an unjustified dismissal, fraud on the court, and bad faith, the Subject Judges violated multiple canons

of the Code of Conduct for United States Judges. He attached various documents to his Complaint.

### 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, findings, rulings, and orders in the case, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, Complainant provides no credible facts or evidence in support of his claims that the Subject Judges acted with an illicit or improper motive, were biased against him, abused their power, used the judicial office to protect another judge, improperly failed to justify their decisions, colluded or conspired with others, committed or covered up fraud, violated the Code of Conduct for United States Judges, 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**.

/s/ William H. Pryor Jr.

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Chief Judge