

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JAN 13 2021

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-20-90106 through 11-20-90111

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate Judge _____ and United States District Judges _____ and _____ 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 Eleventh 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 Magistrate Judge _____, United States District Judges _____ and _____, 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 Complainant has filed multiple lawsuits in the United States District Court for the _____ District of _____, and in those cases, Judges _____, _____, and _____ have issued orders that, among other things, denied Complainant’s motions to proceed in forma pauperis (IFP), required him to file amended complaints, and/or dismissed his complaints.

For example, in May 2018 Complainant filed a civil rights action against multiple individuals, generally alleging the defendants violated his constitutional rights, and he also filed a motion for leave to proceed IFP. The next month, Judge _____ issued an order dismissing the complaint without prejudice and directing the clerk to terminate any pending motions, finding Complainant’s claims were not viable under 42 U.S.C. § 1983 and the complaint failed to state a claim on which relief could be granted.

Complainant then filed a notice of appeal, a motion for relief from judgment or for reconsideration, and a motion for leave to appeal IFP. In July 2018 Judge _____ issued orders denying the motion for relief from judgment and denying the motion to

appeal IFP. In April 2020 a panel of this Court composed of Judges _____, _____, and _____ issued an opinion affirming the dismissal of his complaint. Complainant filed a petition for rehearing, which the panel denied in July 2020.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant generally takes issue with the orders and opinion issued by the Subject Judges in his cases and appeal, contending the decisions were erroneous and arbitrary. He alleges the Subject Judges showed “personal prejudice and bias,” caused a miscarriage of justice, and aided and abetted constitutional violations committed by the defendants in his cases. He also states that “this action was retaliation based on the fact” that he included a certain document in an appendix in an appeal before this Court. He attached 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, orders, and opinion 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 that Complainant challenges, he provide no credible facts or evidence in support of his claims that the Subject Judges were biased or prejudiced against him, aided and abetted constitutional violations, 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.

Chief Judge