

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

AUG 18 2021

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90062

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 the Subject Judge presided over a criminal case involving two defendants. The case proceeded to trial, and the trial took place over multiple days, including January 19, 2004, which was a federal holiday.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge “held court outside of the court[’]s Official Business capacity” by holding trial on a federal holiday, which he contends: (1) constituted conduct outside the performance of official duties that was reasonably likely to have a prejudicial effect on the administration of the business of the courts; and (2) violated 5 U.S.C. § 6103 “Holidays” and Fed. R. Crim. P. 56 “When Court Is Open.”

Complainant states, “Judicial officials have been forced to violate a day of FEDERAL OBSERVATION,” and that “[t]here are no exceptions according to law.” He also contends the Subject Judge’s actions called his impartiality into question, and he states he can provide testimony and audio and video evidence “that would show even more prejudice and biases” the Subject Judge has displayed.

Discussion

Complainant's allegation that the Subject Judge held trial on a federal holiday, even if true, does not constitute cognizable misconduct. *See Smith v. Psychiatric Solutions, Inc.*, 750 F.3d 1253, 1262 (11th Cir. 2014) ("District courts have unquestionable authority to control their own dockets. This authority includes broad discretion in deciding how best to manage the cases before them." (quotations, citations, and footnote omitted)). Complainant provides no credible facts or evidence in support of his remaining claim that the Subject Judge was biased or prejudiced.

The Complaint "alleges conduct that, even if true, is not prejudicial to the effective and expeditious administration of the business of the courts," JCDR 11(c)(1)(A), and it "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)(iii) and Rule 11(c)(1)(A) 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