

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90096

IN THE MATTER OF A COMPLAINT FILED BY _____

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 21 2021

David J. Smith
Clerk

IN RE: The Complaint of _____ against United States Circuit Judge
_____ 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 Circuit 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

Complainant filed previous Complaints of Judicial Misconduct or Disability against two United States district judges, Nos. _____ and _____, and in August 2021 the Subject Judge dismissed those complaints. Complainant has filed additional Complaints of Judicial Misconduct or Disability against other judges, and the Subject Judge has not issued orders in those complaint matters.

Instant Complaint

In the instant Complaint of Judicial Misconduct or Disability, Complainant asserts the Subject Judge “clearly either is ignoring” the other judicial complaints Complainant filed, or is prejudiced against Complainant because he filed a judicial complaint against a judge whom he “presume[s] to be [the Subject Judge’s] wife or relative.” Complainant alleges the Subject Judge lied, committed a crime, violated his oath of office, intentionally avoided addressed the allegations Complainant raised in his other judicial complaints, showed bias and prejudice, did not adhere to the applicable rules, was part of a conspiracy, and committed misconduct in assigning cases. 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 Judge’s orders dismissing Complainant’s previous Complaints of Judicial Misconduct or Disability, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge was biased or prejudiced, had a conflict of interest, lied, committed a crime, violated his oath of office, was part of a conspiracy, 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**.



Acting Chief Judge