

FEB 2 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-21-90156 and 11-21-90157

IN THE MATTER OF A COMPLAINT FILED BY:

IN RE: The Complaint of _____ against United States Magistrate Judge _____ and United States District Judge _____ of the United States District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States Magistrate Judge _____ and United States District Judge _____ (collectively, “the Subject Judges”), under the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Conduct and

Judicial-Disability Proceedings of the Judicial Conference of the United States (“Judicial-Conduct Rules”).

Background

The record shows that in June 2021 Complainant and two other individuals filed a civil complaint against one defendant. The next day, Judge _____ issued an order dismissing the complaint without prejudice on the ground that it failed to state a claim over which the court had subject-matter jurisdiction and on which relief could be granted. The order also noted that the plaintiffs had not paid the filing fee or moved to proceed *in forma pauperis*.

In September 2021 the plaintiffs filed a motion in which they generally took issue with the dismissal of the case, and Judge _____ construed the motion as a motion for reconsideration and denied it. Complainant then filed a “Motion to File Complaint” against Judge _____ in which he alleged she violated his constitutional rights. Judge _____ construed the motion as a second motion for reconsideration and denied it.

Complaint

Complainant’s judicial complaint is composed of various documents. In one document, he states that Judge _____ (1) dismissed the case “without Just Cause or Grounds to support Her Decision”; (2) failed to investigate whether the clerk’s office informed him of the requirement to pay filing fees; and (3) “express[ed] arrogan[ce] and boldness” by ignoring arguments.

Although Complainant lists Judge _____ as a subject judge, he raises no allegations against Judge _____.

Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

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.

All of Complainant’s allegations concern the substance of Judge _____ official actions, findings, rulings, and orders in the above-described case, and the allegations are directly related to the merits of those decisions or procedural rulings. Apart from the decisions or procedural rulings Complainant challenges, he provides no credible facts or evidence in support of a claim that the Subject Judges engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” under Judicial-Conduct Rule 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,” under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge