

APR 18 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90026

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, 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against
United States District Judge _____ (“the Subject Judge”), un-
der 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 2015 Complainant, through counsel, filed an amended complaint against multiple companies, raising claims of employment retaliation and breach of contract. After various proceedings, in April 2016 the defendants filed a “Motion to Enforce Settlement,” and Complainant’s counsel filed a “Motion to Establish Attorney’s Charging Lien” in which he requested that the court order the settlement amount be paid into the court’s registry and that he be permitted to collect his fee from the proceeds. Counsel also filed a motion to withdraw as Complainant’s attorney, which a magistrate judge granted.

The magistrate judge later issued a report recommending that the defendants’ motion be granted and that counsel’s Motion to Establish Attorney’s Charging Lien be granted in part and denied in part. Over Complainant’s objections, in January 2017 the Subject Judge entered an order adopting the report and recommendation, finding the parties had reached a settlement with certain terms and ordering the defendants to deposit the settlement proceeds in the court’s registry. After that, Complainant filed a notice of appeal and a motion to recuse the Subject Judge, arguing she violated his due process rights by, among other things, refusing to provide him with her order and relying on filings from his former attorney. In August 2017 the Subject Judge denied the motion to recuse.

In June 2018 this Court issued an opinion in which it, among other things affirmed the Subject Judge’s order granting the motion to enforce the settlement agreement and held that the Subject

Judge did not abuse her discretion in directing that the settlement award be deposited with the court or in denying the motion to recuse. After that, Complainant filed in the district court, among other things, a motion to reopen the case and to disperse the settlement award to him.

In December 2018 the Subject Judge issued an order granting in part Complainant's motion, reopening the case, and referring the other matters in the motion to the magistrate judge for resolution. In February 2019 the magistrate judge issued a report recommending that some of the settlement amount be disbursed to Complainant and the remainder be distributed to his former attorney. In March 2019 the Subject Judge entered an order that, among other things, adopted the report and recommendation as the court's opinion.

Over two years later, in April 2021 Complainant filed a "Motion to Reopen Under Rule 60(b)(6) and Motion for Leave to Amend Complaint or Initial Complaint," raising various arguments. He also filed a motion for leave to file a second amended complaint. The defendants filed a response in opposition to the motions. Complainant then filed an "Objection to Defendants' Incorrect Response . . ." in which he argued the defendants failed to address the portion of his motions giving the court the option of treating them as an "Initial Complaint."

In February 2022 the Subject Judge entered an order denying the motion to reopen and motion for leave to file a second amended complaint, finding (1) the proposed second amended

complaint was nearly identical to the previous complaint and the claims had previously been adjudicated; (2) Complainant waited almost three years after the final judgment before moving to reopen it, which Rule 60(c)(1) required to be done no more than one year after entry of the judgment; and (3) because a final judgment had been entered in 2019, the motion to file a second amended complaint was also due to be denied. On the same day, a “Clerk’s Certificate of Mailing” to Complainant was entered on the docket. In March 2022 Complainant filed a notice of appeal as to the Subject Judge’s order.

Complaint

Complainant states, “Legal Bigotry by Federal Judges, Clerks of Court, and attorneys against non-attorneys litigants [sic] is an institutional problem in the Federal Court system.” He then asserts that the Subject Judge is a “Legal Bigot” and contends she made “legal and judicial errors” in the above-described case. He alleges the Subject Judge intentionally did not read his April 2021 filings because he is not an attorney, and intentionally failed to address the portion of his filings in which he sought to file an initial complaint. Next, Complainant alleges the Subject Judge intentionally did not mail him a copy of her February 2022 order because she “does not permit due process to non-attorneys” and “was supporting the Defendant.” He provided a USB drive with his Complaint, which he states contains a recording of a call to the Subject Judge’s clerks.

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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an illicit or improper motive or otherwise 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