

MAY 12 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90046

IN THE MATTER OF A COMPLAINT FILED BY:

IN RE: The Complaint of _____ against United States Magistrate 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 _____ (“the Subject Judge”), 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”).

As an initial matter, after Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in October 2021 Complainant filed a lawsuit against a company, and the Subject Judge later issued an order ruling on various motions and directing Complainant to file an amended complaint more definitely stating his claims. Complainant filed an amended complaint in December 2021, and the next month, the defendant, through its attorney, filed a motion to dismiss. In March 2022 the Subject Judge issued an order and report in which he recommended that the defendant's motion to dismiss be granted and the amended complaint be dismissed for want of prosecution and failure to state a claim on which relief could be granted. Over Complainant's objections, the district judge adopted the report and recommendation and granted the defendant's motion to dismiss.

Complaint

Complainant raises various allegations of misconduct by the defendant's attorney. He then appears to allege the Subject Judge engaged in misconduct by "taking over" the case, denying Complainant his rights to due process and equal protection, exhibiting bias and prejudice, and failing to investigate improper conduct by the attorney. He attached documents to his Complaint.

Supplement

In his supplemental statement, Complainant raises allegations of misconduct by the defendant's attorney, and he does not raise any specific allegations against the Subject 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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, report, 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 was biased or prejudiced 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