

MAY 24 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90050

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”).

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 March 2022 Complainant filed a prisoner civil rights complaint against multiple defendants in which he alleged in part that the United States Department of Justice (DOJ) condoned misconduct at his place of incarceration. He also filed a motion for leave to proceed *in forma pauperis* (IFP), and in April 2022 the Subject Judge entered an order denying the IFP motion without prejudice because it was not submitted on the proper form and was not accompanied by a six-month inmate account statement.

On the same day, the Subject Judge entered an order dismissing the complaint without prejudice pursuant to 28 U.S.C. § 1915(e)(2) for failure to state a claim. In the order, the Subject Judge also stated that the court would not tolerate piecemeal litigation or vexatious and abusive filings; any amended complaint may not incorporate by reference any other pleadings; other filings Complainant had submitted were “clearly frivolous”; and “a *pro se* litigant must not call any Judge’s office for any reason.” Complainant filed a notice of appeal as to the Subject Judge’s order and a motion to proceed IFP on appeal.

On May 9, 2022, Complainant filed an amended complaint in which he referred to one of the defendants as “an arrogant, loose

can[no]n asshole cop.” On the same day, the Subject Judge entered an order denying Complainant’s motion for leave to proceed IFP on appeal, finding there were no non-frivolous issues that could be raised on appeal.

Complaint

Complainant states he alleged in his civil complaint that the DOJ engaged in a cover-up, and that, as a result, the DOJ “reached out to or influenced or coerced” the Subject Judge to “antagonize” Complainant and interfere with his rights. He states the Subject Judge knew about a separate action against the DOJ in another jurisdiction and “sought to cover up” for the DOJ by “throwing [Complainant] out of court” and imposing unreasonable delays to discourage him from pursuing his case. He asserts the Subject Judge intentionally violated Fed. R. Civ. P. 1. Complainant notes the Subject Judge stated it was improper to incorporate matters by reference, but he contends that such procedure is routinely used in complaints and motions. He alleges the Subject Judge’s motive was to harass Complainant, misuse “judicial tools,” and cause extraordinary and unreasonable delays to cover up the DOJ’s misconduct. He states the Subject Judge is “exceptionally dishonest” and unfit to be a judge.

Next, Complainant alleges the Subject Judge’s statement—that a *pro se* party is not to call chambers—was “highly prejudicial to a pro se party” because attorneys contact the Subject Judge during civil litigation. He states the “overarching tone and sentiment” of the Subject Judge’s order dismissing his complaint was

“extremely impatient and venomous in speech, tone, and threats to a pro se confined party complaining of physical abuse and retaliation.” Complainant alleges the Subject Judge has a conflict of interest with the DOJ. He also states the Subject Judge used “bad law” and questions why IFP was not granted. Finally, Complainant states, “The motive here again is dishonesty, partiality, and a conflict of interest.”

Supplement

After he filed his Complaint, Complainant filed a supplemental statement. In the supplement, he states that on or around May 4, 2022, the district court received papers he sent in which he insulted a law enforcement officer. Complainant states that on the same day, before the papers were filed, the officer came to his cell and stated, “Careful we wouldn’t want anyone to get hurt.” Complainant contends the officer made the statement because of Complainant’s insult, and that the only way the officer could have known about the insult was if the Subject Judge shared the information with the officer to retaliate against Complainant for stating the district court protects defendants.

Next, Complainant alleges that “[u]pon information and belief,” the Subject Judge “communicated this underlying complaint” to a state court judge “with the intent of settling the score through leveraging and misuse of judicial powers in a completely separate action, due to” Complainant’s judicial complaint against the Subject Judge. Complainant states he had no “issues” with the state

court judge before he filed the judicial complaint, but that on May 4, 2022, the state court judge went on a “rampage in open court.”

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, was influenced or

coerced by the DOJ, was not impartial, retaliated against Complainant, treated him in a demonstrably egregious and hostile manner, had a conflict of interest, had improper *ex parte* communications, 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