

MAY 26 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90065 and 11-22-90066

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 _____ and United States Circuit Judge _____ of the United States Court of Appeals for the _____ Circuit, 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 _____ and United States Circuit 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”).

I. Background

A. Complainant’s Civil Action

The record shows that in June 2020 Complainant filed a civil action against multiple defendants seeking damages for being medicated against his will as a pretrial detainee. He also filed a motion to proceed *in forma pauperis*, which a magistrate judge granted. The magistrate judge then issued a report recommending that Complainant’s due process claim that he was involuntarily administered medication be allowed to proceed against three defendants and that the remaining defendants be dismissed under 28 U.S.C. § 1915A. After that, Complainant filed an amended complaint.

In July 2020 a district judge who is not one of the Subject Judges issued an order adopting the report and recommendation, noting Complainant had filed an amended complaint, and stating the amended complaint superseded the original complaint. In October 2020 the defendants filed motions to dismiss the amended complaint, in one of which two defendants argued that Complainant failed to disclose his prior lawsuits. Later that month, Complainant filed a “Motion for Leave to File an Amended Complaint” disclosing multiple previous lawsuits he had filed, discussing the defendants’ motions to dismiss, and stating that the court must allow his claims to proceed.

The magistrate judge then issued a report recommending in part that the defendants' motions to dismiss be denied and that Complainant's motion for leave to amend his complaint be granted only to the extent that he provided his previous litigation history. The defendants filed objections to the report and recommendation, and Complainant filed, among other things, three motions to amend his complaint.

In December 2020 the district judge issued an order that sustained two defendants' objections to the report and recommendation, adopted in part the report and recommendation, granted the two defendants' motion to dismiss, dismissed the complaint for abuse of judicial process, and denied as moot Complainant's motions to amend his complaint. The district judge stated that Complainant "did not respond to the motion to dismiss" or otherwise attempt to justify why he provided "materially false information in his complaint form," but that he instead filed a motion for leave to file an amended complaint that fully disclosed his litigation history. The district judge disagreed with the magistrate judge's determination that the court should permit Complainant to amend his complaint to add his litigation history after the defendants filed their motion to dismiss, stating that doing so would overlook his abuse of the judicial process. The district judge found that the sanction of dismissal without prejudice was proper in light of Complainant's "extensive history of filing numerous vexatious and frivolous pleadings and motions" and his "failure to even attempt to justify his plainly false pleadings."

Complainant filed a motion for reconsideration, which the district judge denied. In May 2021 the district judge entered an order denying additional motions Complainant had filed and directing the clerk to return any future submissions to him in light of his repeated filing of frivolous and vexatious motions in the case. Complainant filed notices of appeal, and this Court later clerically dismissed the appeals for want of prosecution.

B. Previous Judicial Complaint

In June 2021 Complainant filed a Complaint of Judicial Misconduct or Disability against the district judge in the above-described case, No. _____, alleging in part that he lied by stating Complainant did not file an objection to the defendants' motion to dismiss. In August 2021 a circuit judge who is not one of the Subject Judges dismissed that complaint as merits-related and based on allegations lacking sufficient evidence. Complainant filed a petition for review, and in November 2021 the Judicial Council Review Panel, which included the Subject Judges, affirmed the dismissal order and denied the petition for review.

II. Complaint

Complainant contends that he opposed the defendants' motions to dismiss in the case, and he alleges the district judge lied in the above-described case and violated his oath of office by stating that Complainant did not, and that the circuit judge who dismissed Complaint No. _____ also lied and violated his oath of office by ratifying the district judge's lie. Complainant then alleges that the

Subject Judges ratified the lies, violated Complainant's rights, and were part of a conspiracy to cover up crimes committed by judges. He attached documents to his Complaint.

III. 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.

In addition, the “Commentary on Rule 4” provides:

The phrase “decision or procedural ruling” is not limited to rulings issued in deciding Article III cases or controversies. Thus, a complaint challenging the correctness of a chief judge’s determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related — in other words, as

challenging the substance of the judge’s administrative determination to dismiss the complaint — even though it does not concern the judge’s rulings in Article III litigation.

To the extent Complainant’s allegations concern the substance of the Subject Judges’ order affirming the dismissal of Complaint No. _____ and denying the petition for review, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judges were 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,” 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/ Adalberto Jordan
Acting Chief Judge