

MAY 26 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90067

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 _____, 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

The record shows that in June 2020 Complainant filed a civil action against multiple defendants. The magistrate judge then issued a report recommending that a due process claim 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In July 2020 the Subject Judge issued an order adopting the report and recommendation and stating the amended complaint superseded the original complaint.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. In December 2020 the Subject Judge issued an order that granted the two defendants' motion to dismiss and dismissed the complaint for abuse of judicial process. The Subject 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 Subject Judge denied. He then filed multiple motions seeking various types of relief, including a motion to recuse the Subject Judge. In May 2021 the Subject Judge entered an order denying Complainant's motions 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.

The record also shows that in December 2021 Complainant filed in state court a lawsuit against multiple defendants, and in February 2022 certain defendants removed the case to federal court. After that, a magistrate judge issued a report recommending that the complaint be dismissed for failure to state a claim. In March 2022 Complainant filed, among other things, a motion to recuse the Subject Judge. Also in March 2022 the Subject Judge entered an order adopting the magistrate judge's report and recommendation and dismissing the case without prejudice. The Subject Judge also denied Complainant's motion to recuse.

II. Complaint

Complainant asserts that he "recused" the Subject Judge from the above-described cases, but the Subject Judge "fail[ed] to recuse himself" and issued orders after he was recused. Complainant states that in the first above-described case, the Subject Judge committed a crime, barred him from filing documents, and allowed a defendant to put his information online. He contends the Subject Judge lacked jurisdiction in the second case because the notice of removal was untimely. 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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, and orders in the above-described cases, 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 committed a crime 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