

MAR 30 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90035

ORDER

Two individuals have filed a Complaint against a United States magistrate judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

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

Background

The record shows that in November 2022 Complainants filed a civil complaint against multiple defendants. In January 2023, Complainants filed three “Motion[s] to Show Authority,” seeking to require the defendants’ attorneys to “provide . . . lawful authority to act on behalf of” the defendants. The same month, the

Subject Judge denied the motions on the ground that they lacked a legal basis. Complainants then filed a “Notice to Disqualify Judge,” purporting to notify the court of the Subject Judge’s “automatic disqualification, as an operation of law.”

Afterward, Complainants filed, among other things, four motions to compel in which they requested that the court enter orders directing attorneys to provide documentation showing they had authority to act for defendants in the case. In February 2023, the Subject Judge denied the motions to compel on the grounds that they failed to comply with a local rule and that the court previously denied the motions to show authority. The case remains pending.

Complaint

Complainants state they “fear that they will not receive a fair and impartial hearing, because of [the Subject Judge’s] demonstrable prejudice against them and conflict of interest in the case.” In support, Complainant state that the Subject Judge did not disqualify himself after they filed the Notice to Disqualify Judge, which they contend eroded public confidence in the judiciary and constituted misconduct. They attached documents to their Complaint.

Supplement

In their supplemental statement, Complainants allege the Subject Judge interfered with their First Amendment “right to petition.” They take issue with the Subject Judge’s orders denying their Motions to Show Authority and motions to compel,

contending the orders were based on facts not in evidence, the Subject Judge improperly determined that anyone with a bar license can act on behalf of others even without written authority to do so, and the orders reflected “disability, incompetency, misconduct, or, at worst, criminality.”

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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainants’ allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described case, the allegations are directly

related to the merits of the Subject Judge's decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainants' remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge was not impartial, was prejudiced against them, had a conflict of interest, suffered from a disability, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge