

MAY 09 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90049 and 11-23-90050

ORDER

An individual has filed a Complaint against a United States district judge and 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.

Background

The record shows that in 2020 Complainant, a *pro se* prisoner, filed an emergency motion for injunctive relief and a motion for leave to proceed *in forma pauperis*. The Subject District Judge then entered an order dismissing the case without prejudice and directing the clerk to terminate any pending motions. Complainant filed a notice of appeal and a motion to appeal *in forma pauperis*. The Subject District Judge entered an order denying the *in forma pauperis* motion on the ground that the appeal was not taken in

good faith, assessing the total appellate filing and docketing fees, and directing the agency having custody of Complainant to forward partial payments from his account to the clerk on a monthly basis. On appeal, Complainant filed a motion to voluntarily dismiss the appeal and for a refund of fees, and this Court granted the motion to voluntarily dismiss and denied the motion for a refund. Complainant later filed in the district court a motion seeking a refund of fees, which the Subject District Judge denied.

Complaint

Complainant alleges the Subject Judges subjected him to “intrinsic fraud and to racial discrimination . . . by maliciously and fraudulently forging my signature on a financial consent form,” which caused him to be \$500 in debt. He also alleges the Subject Judges “maliciously and knowingly imposed a bogus appeal fee” in retaliation for him filing a request for an emergency injunction, and unlawfully ordered that a lien be placed on his trust account without his consent.

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 Complainant’s allegations concern the substance of the Subject District Judge’s official actions, rulings, findings, and orders in the above-referenced case, the allegations are directly related to the merits of the Subject District Judge’s decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judges engaged in fraud, discriminated against him, forged his signature, retaliated against him, 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