

JUL 10 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90080

ORDER

An individual has filed a Complaint against a United States district 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 an entity and multiple individuals, through their attorney Complainant, filed an amended civil-rights action against three defendants that alleged claims of racial discrimination. One of the defendants moved to compel the plaintiffs to respond to discovery requests, and the plaintiffs filed an emergency response in which they stated in part that the “race of the Parties led itself to cultural differences” that would likely cause a breakdown in communications and false assumptions. Afterward, one defendant moved for sanctions against the plaintiffs

for failure to comply with court orders concerning discovery. The Subject Judge entered an order dismissing the amended complaint on the ground it constituted a shotgun pleading and granted the plaintiffs leave to file a second amended complaint.

After the plaintiffs filed a second amended complaint, a magistrate judge granted the defendant's motion for sanctions and awarded attorney's fees and costs against Complainant for failure to comply with discovery-related orders. Complainant later filed objections to the sanctions order. Meanwhile, the defendants moved to dismiss the second amended complaint. A defendant later filed another motion for sanctions on the ground that Complainant had spoken impermissibly to represented individuals about the case, and the magistrate judge issued a report recommending that the motion for sanctions be granted.

The plaintiffs moved for summary judgment. After the defendants moved to stay all deadlines pending a ruling on their motions to dismiss, the Subject Judge stayed the deadlines. The plaintiffs then filed additional motions for summary judgment. At a hearing on the motions to dismiss, the Subject Judge orally granted one of the motions and took the others under advisement.

In late 2022, the Subject Judge entered an order that, among other things, dismissed the second amended complaint as a shotgun pleading, dismissed various individual claims on other grounds, and directed the clerk to close the case. The Subject Judge also entered an order denying the plaintiffs' motions for summary judgment as moot. There continues to be activity in the case

related to the pending motion for sanctions filed against Complainant.

Complaint

Complainant alleges the Subject Judge discriminated against him and the plaintiffs due to their race, exhibited bias against the plaintiffs and in favor of the defendants, was biased “in favor of a class of influential white Americans who may have been responsible for selecting and authorizing her appointment as a federal judge,” and failed “to take the constitutional history of the plight of black workers into account” in violation of the United States Constitution. Complainant further contends that the Subject Judge ignored the plaintiffs’ “concerns” raised in various filings about race and other matters, demonstrated incompetence by failing to respond to the plaintiffs’ concerns in an emergency response to a motion to compel, failed to address the plaintiffs’ claims regarding abusive discovery practices and denial of access to the courts, violated the plaintiffs’ fundamental right of access to the courts, “allowed the pre-trial litigation to deteriorate,” “routinely” granted the defendants extensions but “peremptorily denied” extensions to the plaintiffs, failed to “promptly and timely adjudicate” the plaintiffs’ claims, failed to rule on certain motions, failed to convert the defendants’ motions to dismiss to motions for summary judgment, ignored the plaintiffs’ motions for summary judgment, allowed defense counsel to perpetuate discovery abuses, and violated the Code of Conduct for United States Judges, the Federal Rules of Civil Procedure, and the United States Constitution.

Next, Complainant states the Subject Judge issued oral orders “shrouded in ‘secrecy’” and issued written orders that were “disorganized, lack any meaningful analysis of law and facts, and fall far beneath the standards for a federal district court judge.” Complainant takes issue with the sanctions imposed on him, contending the sanctions were not supported by “just cause” and violated the Federal Rules of Civil Procedure. He states the sanctions-related orders “strike against the plight of African American civil rights lawyers,” constituted a “gross abuse of fundamental human rights and reflect antipathy towards rights of African American citizens.” He also states, “The callous indifference towards the rendering of unsubstantiated ‘sanctions’ may rightfully be construed to be a ‘badge or incident’ of slavery assessed against Black civil rights lawyers who endeavor to help members of their own community.” He further contends the Subject Judge failed to address his objections to the sanctions order for over two years “so as to keep the Plaintiffs in a perpetual sense of mental pain, doubt, fear, and agony.” He also raises allegations relating to individuals other than the Subject Judge.

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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, *i.e.*, assigning a low priority to deciding the particular case.”

The Complaint fails to present a basis for a finding of misconduct. 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. 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 Judge acted with an illicit or

improper motive, discriminated against Complainant or the plaintiffs, was biased, was otherwise not impartial, was incompetent, 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