

JUL 17 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90164

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 establishes that Complainant filed a civil complaint naming the United States as the defendant, and the defendant filed a motion to dismiss. Complainant then filed two motions in which he sought to assert rights as the victim of a crime. A magistrate judge issued a report recommending that the defendant's motion to dismiss be granted, that the action be dismissed without prejudice, and that the victims' rights motions be denied. Complainant filed a motion to amend his complaint.

The Subject Judge issued an order adopting the magistrate judge's report and recommendation, granting the motion to dismiss, dismissing the case without prejudice, and denying Complainant's victims' rights motions. The Subject Judge also issued an order denying Complainant's motion to amend his complaint. The Subject Judge found that amendment would be futile because the claims would be subject to dismissal for lack of subject-matter jurisdiction and failure to state a claim, and the order stated that the action was dismissed with prejudice.

Complaint

Complainant states that the Subject Judge engaged in "Sexist Discrimination against" him and that there is "irrefutable evidence that her Judg[]ments are determined by the Sex of her subjects." He alleges the Subject Judge "illegally uses common law in her Judg[]ments to defeat [his] Case," "uses common law as privilege over statutory law violating" rules and a state statute, ignored federal and state statutes, violated his constitutional rights, violated her oath of office, and "cannot" dismiss his case with prejudice for lack of jurisdiction.

Complainant contends the Subject Judge violated the Federal Rules of Civil Procedure and used "unlawful common law" to deny his motion to amend his complaint, and that she dismissed the case without giving him an opportunity to cure the deficiency "to cause more litigation." He further alleges that the court caused delay in the case, and he states, "This is evidence of Conspiracy."

He requests various types of relief and attached documents to his Complaint.

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.”

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, 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). Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge engaged in sex discrimination, violated her oath of office, was part of a conspiracy, 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