

SEP 09 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90202

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 and another individual filed a *pro se* civil lawsuit against multiple defendants. The Subject Judge entered an order dismissing the case on the ground that the gravamen of the complaint was “a frivolous contention” that lacked legal merit. The order stated that the case would be closed if an amended complaint was not filed within 14 days.

Before 14 days had passed, the Subject Judge entered an order directing the clerk to close the case, and the same day, the plaintiffs filed an amended complaint. The Subject Judge then entered

an order directing the clerk to reopen the case because it was closed prematurely. The defendants filed motions to dismiss the amended complaint. Some defendants also moved to stay discovery, and on the same day, the Subject Judge stayed discovery. The Subject Judge later dismissed the amended complaint with prejudice as frivolous.

Complaint

Complainant states the Subject Judge dismissed the complaint on the ground that it raised a “frivolous contention,” that use of the phrase meant he could be sanctioned for continuing the case, and that the Subject Judge “was confident that I would not amend under threat of sanctions.” He states that the Subject Judge closed the case before the time for him to file an amended complaint had run, demonstrated “an implicit bias towards my amended complaint,” “ignored reviewing it De Novo and liberally as a civil rights case,” held a *pro se* litigant to a higher standard than an attorney, issued an order that “impaired my right to redress because continuing access [to] the Courts came with Judicially imposed and biased conditions,” acted without impartiality, and violated multiple canons of the Code of Conduct for United States Judges. Finally, Complainant takes issue with the Subject Judge’s order granting the defendants’ motion to stay discovery, contending the order evidenced “even more bias, and hostility regarding the subject, along with abuse of process from the lack of impartiality.”

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 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 acted with an illicit or improper motive, was biased or otherwise not impartial, violated the Code of Conduct for United States Judges, 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