

SEP 10 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-24-90203 and 11-24-90204

ORDER

An individual has filed a Complaint against two United States district judges 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 Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record establishes that Complainant filed a civil complaint against multiple defendants. On the same day, according to a docket entry, the case was reassigned to the First Subject Judge and the Second Subject Judge was no longer assigned to the case. Five days later, the First Subject Judge entered an order dismissing

the case without prejudice because Complainant had not paid the filing fee or requested to proceed *in forma pauperis*.

Complaint

Complainant states the above-described case was transferred from the Second Subject Judge to the First Subject Judge “without following any established procedures or the procedures outlined in the Local Rules for transferring cases between judges.” He states that the defendants “are affiliated with the Federal Court system” and that he believes they “are personally known to” the First Subject Judge and may have contacted her *ex parte* “to discuss the case and/or to facilitate the dismissal of the case.” He states he inquired about the transfer, and the “only explanation [he] received from the Court was something to the effect that [the Second Subject Judge], as a ‘Senior Status’ judge, had a policy of discriminating against pro se litigants by declining to hear cases brought by same.” (Footnote omitted).

Complainant states he believes that the defendants and the Subject Judges “may have conspired” to have the case transferred because of the First Subject Judge’s “well-known bias against” him. He states he is involved in another case before the First Subject Judge in which she “demonstrated extreme bias against [him] and bias in favor of the Defendants ... who are all politically powerful individuals and/or agencies whom [the First Subject Judge] has a natural favoritism for, combined with the natural antipathy towards pro se litigants demonstrated in [the First Subject Judge’s] prior caseload.” Complainant states he is not complaining about

the “bias and bigotry displayed by” the First Subject Judge in the other case.

Next, Complainant contends the above-described case was “dismissed improperly” because it was dismissed when he still had time to pay the filing fee. He states the dismissal order was post-marked from a city where certain defendants were located, which was “strange and unusual” as he had not previously received mail from that location. He states he believes the defendants “may have colluded with [the First Subject Judge] up to the point of having an Order of Dismissal ‘made to order’ which they then sent” to him from their location. Finally, Complainant states he “does not expect justice to be carried out in this Complaint and fully acknowledges the bias within the Federal court system, especially as it pertains to pro se litigants.”

Supplement

In his supplemental statement, Complainant complains that the letter from the Clerk’s Office acknowledging receipt of his Complaint used the phrase “The Honorable” when referring to the First Subject Judge. He states he did not use those words because he does not believe them to be accurate, and that to ascribe the words to him “would be a form of compelled speech” and a “major misrepresentation of my actual speech and my position on the issue at hand.”

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 Judges’ official actions and the First Subject Judge’s findings and order in the above-described case, the allegations are directly related to the merits of the Subject Judges’ 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 acted with an illicit or improper motive, were biased or otherwise not impartial, conspired or colluded with others, had improper *ex parte* communications, 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