

OCT 10 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-24-90221 through 11-24-90233

ORDER

An individual has filed a Complaint against three United States district judges, one United States magistrate judge, eight United States circuit judges, and one former United States circuit 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 Complainant filed a second amended civil product-liability complaint against a corporation. After various proceedings, the Second Subject District Judge entered an order granting the defendant's motion to dismiss the second amended complaint on the ground that the action was barred by the applicable statute of limitations. On appeal, this Court affirmed.

Over the next several years, Complainant filed multiple unsuccessful motions and appeals seeking relief from judgment.

The record shows that Complainant filed a 28 U.S.C. § 2254 petition for writ of habeas corpus challenging a state court conviction, and he later filed an amended petition. After various proceedings, the Third Subject District Judge entered an order dismissing the amended § 2254 petition for lack of subject-matter jurisdiction, finding Complainant was not in custody when he filed the petition. On appeal, this Court affirmed.

The record shows that Complainant filed a second amended civil complaint against multiple defendants. The First Subject District Judge later entered an order dismissing the second amended complaint for lack of subject-matter jurisdiction. Complainant filed a third amended complaint, which the First Subject District Judge dismissed as a shotgun pleading. Complainant filed a fourth amended complaint. The First Subject District Judge entered an order dismissing all counts against certain defendants with prejudice, dismissing a defendant from the case without prejudice for lack of personal jurisdiction, and allowing Complainant to file a fifth amended complaint. Complainant then filed a fifth amended complaint, and the remaining defendants filed motions to dismiss. The First Subject District Judge granted the motions to dismiss and dismissed the fifth amended complaint with prejudice. On appeal, this Court affirmed.

The record shows that, more recently, Complainant has filed two civil actions in which he challenged a state's sex offender

registry and a city ordinance, and he filed in both cases a motion for leave to proceed *in forma pauperis* (IFP). In both cases, the Subject Magistrate Judge issued an order stating that the court would conduct an evidentiary hearing to assess Complainant's IFP motion. In one case, Complainant filed a motion to waive the IFP hearing, and the Subject Magistrate Judge denied the motion. Complainant then paid the filing fee, and the Subject Magistrate Judge denied the IFP motion as moot. Complainant later filed a second amended complaint. In the other case, Complainant filed a motion to waive the IFP hearing, and the Subject Magistrate Judge issued an order granting the IFP motions and motion to waive the hearing. Both cases remain pending.

Complainant also filed another § 2254 petition challenging his state court conviction. The First Subject District Judge entered an order dismissing the § 2254 petition for lack of jurisdiction.

Complaint

Complainant states his Complaint concerns "2 courts conspiring to block justice for" him, and he alleges the Subject Judges allowed fraud to be committed on the court. He contends his pending cases are in "immediate danger" due to the First Subject District Judge's and the Subject Magistrate Judge's "bias, delay, harassment and abuse," he alleges those judges purposely delayed his case for months by holding a hearing on his IFP motion, and he alleges the judges purposely delayed another case. In contrast, he contends, the same judges dismissed one of cases with similar issues "in record time."

Complainant contends that state court judges have been covering up illegal actions and that the Subject District Judges and Subject Magistrate Judge “are also conspiring with the cover-up because they worked in the State Courts that conspired in the cover-up.” He states, “These judges have personal knowledge of evidentiary facts that could have stopped [him] from being convicted of any crime and therefore the fact that he is innocent.” He alleges that the judges “have their minds made up” and violated the Code of Conduct for United States Judges. Complainant also contends that two of the Subject District Judges who participated in one of his cases previously worked in the state courts and should have recused themselves from his case.

With respect to certain cases and appeals, Complainant states that the treasurer of a certain organization was listed as an interested person and that certain Subject Judges were members of the organization in violation of the Code of Conduct for United States Judges. He contends that if the Subject Judges “cannot be trusted to properly NOT sit” in his cases, “they cannot be trusted to act in an impartial manner” and should have recused themselves.

Discussion

1. Former Subject Circuit Judge

Judicial-Conduct Rule 11(e) states, “The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible as to the subject judge.”

The Commentary on Rule 11 states in part, “Rule 11(e) implements Section 352(b)(2) of the Act, which permits the chief judge to ‘conclude the proceeding,’ if ‘action on the complaint is no longer necessary because of intervening events,’ such as a resignation from judicial office.”

The intervening event of the former Subject Circuit Judge’s retirement render the allegations moot or make remedial action impossible. Judicial-Conduct Rule 11(e). For that reason, this Complaint proceeding is **CONCLUDED** to the extent it concerns the retired Subject Circuit Judge. The conclusion of this proceeding in no way implies that there is any merit to Complainant’s allegations against the former Subject Circuit Judge.

2. Remaining Subject Judges

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.”

To the extent the Complaint concerns the remaining Subject Judges, the Complaint fails to present a basis for a finding of misconduct. To the extent the Complaint concerns the remaining Subject Judges official actions, findings, rulings, orders, and opinions in his cases and appeals, 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 part of a conspiracy, were biased or otherwise not impartial, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED** to the extent it concerns the remaining Subject Judges.

/s/ Charles R. Wilson

Acting Chief Judge