

FEB 10 2025

David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-25-90010 through 11-25-90014

ORDER

An individual has filed a Complaint against five United States circuit 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.

Background

The record shows that Complainant filed a 28 U.S.C. § 2254 petition for writ of habeas corpus, challenging a certain state court conviction, and a district judge later denied the petition. On appeal, the Fourth Subject Judge issued an order denying Complainant’s motion for a certificate of appealability and other motions he had filed. Complainant filed a motion for reconsideration, which a panel composed of the Fourth and Fifth Subject Judges denied.

Previous Complaints

Complainant filed a previous Complaint of Judicial Misconduct or Disability against the Fourth and Fifth Subject Judges pertaining to their actions in the above-described appeal. The Third Subject Judge dismissed that Complaint as merits-related and based on allegations lacking sufficient evidence to raise an inference that the subject judges engaged in misconduct.

Complainant then filed a Complaint of Judicial Misconduct or Disability against the Third, Fourth, and Fifth Subject Judges. The Second Subject Judge dismissed that complaint on the same grounds.

Complainant then filed a Complaint of Judicial Misconduct or Disability against the Second, Third, Fourth, and Fifth Subject Judges. The First Subject Judge dismissed that complaint on the same grounds.

Current Complaint

Complainant alleges the Subject Judges “knowingly evaded” a double-jeopardy claim he raised, discriminated against him based on his race, falsified orders, made misrepresentations, had improper *ex parte* communications, colluded and conspired to discriminate against him, overlooked facts, ignored standards, and failed to apply rules.

Supplements

After Complainant filed his Complaint, he submitted two documents. In the first, he purports to file a motion to transfer the

complaint matter to another jurisdiction pursuant to Judicial-Conduct Rule 26 or to “command compliance” with the Judicial-Conduct Rules, and he reiterates the allegations made in his Complaint. In the second, Complainant states that he filed a motion to transfer pursuant to Judicial-Conduct Rule 26 “to be reviewed by the judicial council,” and he states that the Eleventh Circuit has “no respect for people of color” and has an “allegiance to white supremacist policies.” After submitting the second document, Complainant stated in correspondence that he did not intend to file a supplement, but instead to file a motion for consideration by the Judicial Council.

The two documents Complainant submitted after he filed his Complaint are treated as supplemental documents and the filing of the supplemental documents is permitted under 11th Cir. JCDR 6.7. Complainant’s request to transfer this matter to another judicial council is **DENIED**.

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.

In addition, the “Commentary on Rule 4” provides:

The phrase “decision or procedural ruling” is not limited to rulings issued in deciding Article III cases or controversies. Thus, a complaint challenging the correctness of a chief judge’s determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related — in other words, as challenging the substance of the judge’s administrative determination to dismiss the complaint — even though it does not concern the judge’s rulings in Article III litigation.

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, rulings, and orders in the above-described appeal and previous judicial-complaint matters, 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, discriminated against him, had improper *ex parte* communications, were part of a

conspiracy, made false statements, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ Robin S. Rosenbaum
Acting Chief Judge