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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-25-90046 and 11-25-90047

ORDER

Two individuals have filed a Complaint against a United States district judge and a United States magistrate 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 Complainants filed in state court a civil complaint against two defendants, and the defendants removed the case to federal court and filed a motion to dismiss. The Subject Magistrate Judge entered an order taking the motion to dismiss under advisement. Complainants filed a response to the motion in which they moved to disqualify opposing counsel for alleged misconduct, and they also filed multiple motions for issuance of subpoenas. The Subject District Judge denied the motions for

issuance of subpoenas. After a hearing, the Subject District Judge entered an order granting the defendants' motion to dismiss.

Complaint

Complainants allege the Subject Judges failed to uphold their "statutory and constitutional obligations," exhibited bias and prejudice, abused their power, violated a statute requiring their recusal, and violated "several federal provisions and the principles of justice and fairness that our legal system requires." They contend the Subject Judges failed to provide them with "assistance regarding the rules and procedures of the court," which disadvantaged them and undermined their ability to present their case effectively, blocked reasonable discovery, conspired with opposing counsel, permitted opposing counsel to engage in misconduct, undermined the integrity of the proceedings by failing to disqualify opposing counsel, violated their equal protection rights, and violated their "rights to fair treatment, equal justice, and due process." They also take issue with the actions of other individuals, and they attached documents to their 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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainants’ allegations concern the substance of the Subject Judges’ official actions, findings, rulings, and orders 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). Complainants’ 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, abused their power, were 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