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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90234

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.

As an initial matter, after Complainant filed his Complaint, he filed two supplements. The filing of the supplements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record establishes that a federal agency filed a civil complaint against Complainant and two other individuals. After the Subject Judge issued a judgment against one defendant, the plaintiff filed a motion for partial summary judgment against Complainant and the remaining defendant, and the Subject Judge granted the

motion and issued a final judgment against Complainant and the other defendant.

After the defendants appealed, Complainant filed multiple motions seeking various types of relief, and the Subject Judge entered orders denying or striking the motions. In one order, the Subject Judge addressed Complainant's "onslaught of filings," stated that his continued filings were "viewed with disfavor," and cautioning him that if he continued to submit frivolous and redundant documents, his ability to file may be restricted.

Complaint

Complainant states that in the above-described case, "filings and orders proceeded without reference to a prior bankruptcy discharge," and that the "omission of that jurisdictionally significant fact from the record coincided with a pattern in which pro se submissions were denied or stricken." Complainant contends that the Subject Judge's conduct "created an appearance of lack of impartiality and did not reflect the duty of ensuring fair treatment of pro se litigants under Canon 3 of the Code of Conduct for United States Judges."

Supplements

After he filed his Complaint, Complainant filed two supplements. In the first supplemental filing, Complainant alleges that three post-judgment orders issued by the Subject Judge demonstrate "[w]orsening judicial hostility," "[o]bstruction of appellate record," improper striking of evidence, "[i]mproper commentary on matters outside the scope," bias in favor of a federal agency,

interference with “bankruptcy discharge jurisdiction,” threats of filing restrictions without due process, extrajudicial findings of fact, “prejudicial characterizations,” “assertions not grounded in the record,” and violations of the Code of Conduct for United States Judges.

In his second supplemental filing, Complainant alleges that the Subject Judge continued to be hostile toward and prejudiced against him, violated the Code of Conduct for United States Judges, denied him due process by stating motions would be summarily denied, relied on the plaintiff’s position without neutral evaluation, showed favoritism toward the plaintiff, improperly struck filings, intruded into the bankruptcy court’s jurisdiction, and risked interfering with this Court’s jurisdiction.

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, findings, rulings, 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, treated him in a demonstrably egregious and hostile manner, 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