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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-26-90014

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.

Background

The record establishes that Complainant filed an amended civil complaint against multiple defendants, and the defendants moved to dismiss the case and to stay discovery. The Subject Judge entered an order staying discovery pending a ruling on the motions to dismiss. The case remains pending. The record also establishes that Complainant filed another amended civil complaint against multiple defendants and a motion to recuse the Subject Judge. That case also remains pending.

Complaint

Complainant alleges “corruption, serious abuse of power, criminal conduct, undisclosed conflicts of interest, unfairness, obstruction of justice, and a pattern of constitutional violations by” the Subject Judge. He states the Subject Judge “engaged in a pattern of conduct compromising judicial impartiality, placing him in the role of material witness and fact participant, obstructing access to courts, and creating a structural conflict of interest prohibited by federal law and the Constitution.” Complainant contends that because the Subject Judge presided over both above-described cases, he “possesses personal knowledge of disputed evidentiary facts and is a material witness to events directly at issue, requiring mandatory disqualification under 28 U.S.C. § 455.”

Complainant further alleges that the Subject Judge “used his judiciary authority to shield his own rulings from scrutiny, restrict discovery into constitutional violations, and terminate motions central to [Complainant’s] access to relief.” He states the Subject Judge may have committed a crime, violated “recusal statutes and judicial ethics” by failing to disclose a conflict of interest, was not impartial, undermined the integrity of the judicial process, and “retaliat[ed] against protected legal activity.” He attached documents to his 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 Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in the above-described cases, 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, had a conflict of interest, abused his power, committed a crime, retaliated against him, 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