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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-26-90027

ORDER

Three individuals have 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 Complainants filed their Complaint, they filed a supplement. The filing of the supplement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record establishes that one of the Complainants filed a civil complaint against multiple defendants alleging racial discrimination, retaliation, and “wrongful denial of a farm loan,” and the case was later transferred to the Subject Judge’s court. A district judge who is not the Subject Judge issued an order staying the case in the light of a lapse of appropriations. Complainants then moved

for the appointment of counsel and to communicate with the defendants' counsel, and the Subject Judge entered an order denying the motion to appoint counsel and granting the motion to communicate. After the stay was lifted, Complainants filed an amended complaint, and the defendants moved to dismiss it. The Subject Judge entered an order granting the defendants' motion to dismiss. In the order, the Subject Judge stated that Complainants had misrepresented that the court that transferred the case had determined that their claims were meritorious. Complainants filed a motion to vacate the dismissal order, which the Subject Judge denied.

Complaint

Complainants contend that the transferor court found their claims to be nonfrivolous and that precedent “holds that when a claim is transferred as nonfrivolous, the transferee court must honor [that] finding and proceed to the merits, not dismiss for procedural or technical reasons.” They contend that the Subject Judge dismissed the amended complaint without a hearing on merits, conflated “frivolousness” with “failure to state a claim,” treated their “good-faith reliance on the transfer order as fraud,” and overlooked binding precedent. Complainants further allege that the Subject Judge “permitted an illegal and unauthorized” extension of time, dismissed the case without providing notice or an opportunity to respond in violation of their due-process rights, failed to address substantive issues, and mischaracterized facts and law. They state, “The cumulative effect of adverse rulings, disregard for precedent, and procedural irregularities demonstrates bias and prejudice, warranting recusal under 28 U.S.C. §§ 144 and 455.”

Finally, Complainants complain about a lack of communication and contend that they failed to receive notifications about the Subject Judge's actions in the case.

Supplement

In their supplemental filing, Complainants provide a “statement detailing several incidents of judicial misconduct, mismanagement of court orders, application of ‘old law’ and violations of due process.” They contend the Subject Judge prejudiced them by applying “older” legal standards or precedent and “failing to account for recent shifts in federal policy that narrow the scope of actionable discrimination.” They allege the Subject Judge failed to treat *pro se* and represented litigants equally, allowed or enabled the defendants to disregard orders, and failed to enforce deadlines, which resulted in delay and severely prejudiced them. They further contend that the Subject Judge issued rulings while the case was stayed and based on a “defective record,” which rendered the rulings invalid, violated their constitutional rights, and undermined confidence in the judiciary's fairness and impartiality. They also take issue with the actions of the defendants and the clerk of court.

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.

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.”

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainants’ allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in the 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). Complainants’ 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, 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