

APR 18 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-24-90039 and 11-24-90040

ORDER

An attorney has filed a Complaint against two United States district 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 represented different plaintiffs in two civil-rights actions. In one case, the Second Subject Judge issued an order directing Complainant to show cause as to why he should not be sanctioned for his flagrant violation of court orders excluding certain evidence. Complainant filed a motion for reconsideration and a response to the show-cause order. The Second Subject Judge denied the motion for reconsideration and found that Complainant had acted in bad faith in litigating the case, flagrantly violated orders, and had an extensive history of making

unfounded allegations and violating court orders. The order referred Complainant to the district court's grievance committee and stated that the referral would serve as an informal reprimand pending recommendations from the grievance committee as to whether he should be disbarred.

In the other case, the First Subject Judge issued an order directing Complainant to show cause as to why sanctions should not be imposed for his behavior in the case and why he should not be referred to the State Bar and the district court's grievance committee for his pattern of bad-faith behavior in litigation. The order stated that Complainant had raised frivolous arguments, exhibited an unprofessional tone, and made unfounded allegations of racial bias. The order also discussed Complainant's actions in other cases, stated he had an extensive history of failing to comply with rules and court orders, and cited in part two orders to show cause issued in the above-described case.

Complaint

Complainant states that the Subject Judges engaged in "'concerted' conduct, in that [the Second Subject Judge] referenced [the First Subject Judge's] 'Order to Show Cause'—despite the fact that [the First Subject Judge] had not yet ruled on that order." He asserts that the Subject Judges "violated the Code of Conduct for United States Judges, regarding judicial bias and judicial discrimination against a litigant or an attorney on the basis of race or participation in a civil rights case." Complainant also states the Subject Judges' actions "exemplify the sort of racialism and judicial bias against

Black attorneys and Black civil rights litigants in” a division of the district court. He attached documents to his Complaint.

In his attachments, Complainant states that the Second Subject Judge’s order referring him to the district court’s grievance committee and the First Subject Judge’s order to show cause constituted “absolute tyranny,” violated the United States Constitution, constituted a form of “racial profiling,” were issued to retaliate against him, and had no factual or legal foundation. He also states the First Subject Judge’s order was “motivated by bias” and constituted “a form of public humiliation and slander, without due process of law.”

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 Judges' official actions, findings, rulings, and orders in the above-described cases, 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, were biased, discriminated or retaliated against him, 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