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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-24-90246 and 11-24-90247

ORDER

An individual 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 establishes that Complainant filed a civil complaint against a company. The defendant moved for summary judgment, and the Second Subject Judge granted the motion in part. The case was later reassigned to the First Subject Judge, who granted Complainant summary judgment on the remaining count. On appeal, this Court vacated and remanded. The First Subject Judge later granted the defendant summary judgment.

The record also establishes that Complainant filed another civil complaint against a company, a motion for appointment of counsel, and a motion to recuse the First Subject Judge. The First Subject Judge later entered orders denying Complainant's motions, striking his complaint as a shotgun pleading, directing him to file an amended complaint, and directing the clerk to administratively terminate the case. Complainant filed a motion for reconsideration.

Complaint

Complainant states he has been harmed by the Subject Judges' "bad rulings and bigotry" and that their failure to seal one of the cases led to a document being used against him in a different proceeding. Complainant states that the First Subject Judge "will not stop attacking" him and harassed him in the above-described cases for being disabled. He states the First Subject Judge should be removed from his cases, and 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 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, attacked or harassed 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