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David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-25-90223 through 11-25-90225

ORDER

A corporation has filed a Complaint against two United States circuit judges and one 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 a supplement. The filing of the supplement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that two individuals, one of whom is the Chief Executive Officer of Complainant, filed an amended civil complaint against multiple defendants, and the defendants filed motions to dismiss and for judgment on the pleadings. After various proceedings, the Subject District Judge entered an order granting the motions to dismiss and for judgment on the pleadings. The

order gave the plaintiffs 21 days to file a second amended complaint. One of the plaintiffs appealed.

On appeal, the defendants moved to dismiss the appeal for lack of jurisdiction, arguing the district court's order was not final. A panel of this Court that did not include either Subject Circuit Judge denied the motion to dismiss. Another panel of this Court that did not include either Subject Circuit Judge later issued an opinion affirming the district court's order granting the motions to dismiss and for judgment on the pleadings.

While the appeal was pending, the Subject District Judge entered an order dismissing the case with prejudice due to the plaintiffs' failure to file an amended complaint. Afterward, one of the plaintiffs filed multiple motions to reopen the case and to recuse the Subject District Judge, and the Subject District Judge denied those motions. In his most recent order, the Subject District Judge directed the clerk not to docket any further filings submitted by the plaintiff, other than a notice of appeal.

Complaint

Complainant alleges the Subject District Judge deliberately defied this Court's mandate, engaged in retaliation, was biased, "violated the integrity of judicial administration," and violated the constitutional rights of the plaintiff in the above-described case. Complainant states that, despite this Court's order denying the motion to dismiss the appeal, the Subject District Judge "continued to exercise jurisdiction and issue rulings, thereby nullifying the appellate decision and violating both the letter and spirit of the

mandate.” Complainant alleges that the Subject District Judge’s “[s]ubsequent rulings and communications reflected unexplainable and illogical racial personal animus toward [the plaintiff] linked to protected petitioning activity.” He contends that the Subject Circuit Judges, “when notified, failed to ensure compliance or initiate corrective proceedings, amounting to neglect of supervisory duty.” Finally, Complainant alleges that the Subject Judges violated multiple canons of the Code of Conduct for United States Judges. He attached documents to its Complaint.

Supplement

In his supplemental filing, Complainant asserts that the Subject Judges are required to be removed from considering this matter and that his district court case is required to be reinstated and reassigned. He also contends this Court lacks jurisdiction to adjudicate his Complaint and that this complaint matter is required to be transferred to another jurisdiction.¹ Finally, he takes issue with the actions of a judge from another circuit, and he “demands corrections” in other cases.

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

¹ To the extent Complainant requests to transfer this complaint matter to another jurisdiction, his request is DENIED.

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 District Judge’s official actions, findings, rulings, and orders in the above-described case, the allegations are directly related to the merits of the Subject District 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 Judges acted with an illicit or improper motive, were biased or otherwise not impartial, discriminated or retaliated against the plaintiff, 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/ Adalberto Jordan
Acting Chief Judge