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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-25-90246 and 11-25-90247

ORDER

Two individuals have filed a Complaint against a United States district judge and a United States magistrate 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 their Complaint, they filed a supplement. The filing of the supplement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record establishes that Complainants filed a second amended complaint alleging medical malpractice against three defendants, and the Subject Judges were assigned to the case. The defendants moved for summary judgment, which the Subject District Judge denied. The defendants later moved for partial summary

judgment. They also moved for sanctions and argued that the case should be dismissed because Complainants had fraudulently manufactured certain video evidence. The Subject District Judge granted the defendants' motions for partial summary judgment and dismissed some claims with prejudice.

The Subject Magistrate Judge issued a report recommending that the motion for sanctions be granted and that the case be dismissed with prejudice on the ground that Complainants "willfully fabricated the video evidence in bad faith." Over Complainant's objections, the Subject District Judge adopted the report and recommendation. This Court affirmed.

Complainants moved to disqualify the Subject District Judge and alleged that she deliberately failed to disclose a conflict of interest stemming from her brother's employment with one of the defendants and her sister-in-law's employment with an affiliated entity. The Subject District Judge referred the motion to another judge "to promote the utmost confidence in the Court and all its decisions." The other district judge denied the motion to disqualify. The Subject District Judge then issued an order confirming that she had no subjective bias or prejudice against Complainants or for the defendants.

Complaint

Complainants allege the Subject District Judge had "close familial and professional conflicts of interest" with the defendants and their counsel and "consciously failed to disclose the relationships of her brother and sister-in-law's roles with" the defendants.

They allege the Subject District Judge failed to disclose that her brother was on the “Staff” and served as “a senior leader and high-level executive” at one of the defendant entities. They state the Subject District Judge’s brother had an “extensive history” with the defendant “spanning decades of involvement” and that “he has likely played a significant role in major decisions made by the C-suite and holds considerable influence within the organization.” Complainants further allege the Subject District Judge’s sister-in-law served as the secretary and was an “officer” of an “affiliated entity that functions as a supporting organization” to the defendant. Complainants state that the Subject District Judge’s “law clerks and interns have subsequently been employed” by the defendant “at various points during our lawsuit.”

Complainants next contend the Subject District Judge issued “a pattern of rulings that are a part of a broader misconduct evidencing an improper motive or behavior.” They assert that the Subject District Judge ignored applicable case law and “critical expert affidavits” and “would mention points and case law favorable to the defendants when the defendants would fail to include these points in their motions.” They allege the Subject District Judge “smeared” them and “wrongfully found” that they committed fraud on the court and abused the judicial process, and they contend the Subject District Judge abused the judicial process and violated a canon of the Code of Conduct for United States Judges. Finally, they take issue with the conduct of other individuals and entities. They do not raise any specific allegations concerning the

Subject Magistrate Judge. They attached documents to their Complaint.

Supplement

After they filed their Complaint, Complainants filed a supplement in which they contend that the Subject District Judge inappropriately handled the motion for disqualification and reassigned their case without justification. They state, “This veiled effort to protect the integrity of the court is far too short and far too late” and that the “damage has already been done and demonstrates that the court’s integrity has been compromised.” Complainants state that the proceedings were “tainted,” the Subject District Judge “knew that she lacked proper authority,” she “tarnished the reputation” of and eroded public trust in the court, she avoided her judicial duty by reassigning the motion to disqualify, and she acted deceptively by avoiding motions for clarification. Complainants also allege the Subject District Judge acted to protect the interests of her family. They state they have “suffered irreparable damage emotionally, financially and spiritually” because of the Subject District Judge’s actions. Finally, they assert that the “court” has wasted resources, lied, and been deceptive and dishonest.

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.

Canon 3C of the Code of Conduct for United States Judges states in part that a judge shall disqualify herself in a proceeding in which her impartiality might reasonably be questioned, including where “the judge has a personal bias or prejudice concerning a party,” or a person related to the judge within the third degree of relationship is “an officer, director, or trustee of a party” or is “known by the judge to have an interest that could be substantially affected by the outcome of the proceeding.” Canon 3C(1)(a), (d).

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,

had a conflict of interest, abused the judicial process, used their office to obtain special treatment for relatives, lied, 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