FILED: October 19, 2021

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

In the Matter of a *

Judicial Complaint * No. 04-21-90039

Under 28 U.S.C. § 351 *

ORDER

Complainant filed a judicial complaint against a district court judge pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364. A judicial complaint filed under the Act is subject to dismissal if it (1) fails to allege conduct "prejudicial to the effective and expeditious administration of the business of the courts" as required by 28 U.S.C. § 351(a), 28 U.S.C. § 352(b)(1)(A)(i); (2) is directly related to the merits of the subject judge's decision or ruling, § 352(b)(1)(A)(ii); or (3) is frivolous or "lack[s] sufficient evidence to raise an inference that misconduct has occurred," § 352(b)(1)(A)(iii). It is further subject to dismissal if a limited inquiry discloses that the allegations set forth in the judicial complaint "lack any factual foundation or are conclusively refuted by objective evidence." 28 U.S.C. § 352(b)(1)(B). The Act also permits dismissal if appropriate corrective action or intervening events render further action on the complaint unnecessary. 28 U.S.C. § 352(b)(2).

If the judicial complaint is not dismissed pursuant to 28 U.S.C. § 352(b), it must be assigned to a special committee for an investigation and report to the judicial council. 28 U.S.C. § 353. The report "shall present both the findings of the investigation and the

committee's recommendations for necessary and appropriate action by the judicial

council." 28 U.S.C. § 353(c).

Upon review of this judicial complaint and the judge's response thereto, I find that

the complaint is not subject to dismissal under 28 U.S.C. § 352(b) and that a special

committee must be appointed to conduct an investigation and report its findings and

recommendations to the judicial council pursuant to 28 U.S.C. § 353.

I recuse myself from further action on this judicial complaint. See Rule 25(a) of the

Rules for Judicial-Conduct and Judicial-Disability Proceedings (providing that judge is

disqualified from participating in any judicial misconduct proceeding "if the judge

concludes that circumstances warrant disqualification"). In light of my disqualification,

the duties and responsibilities of the Chief Judge are "assigned to the most-senior active

circuit judge not disqualified." Judicial-Conduct Rule 25(f). In accordance with Rule

25(f), Circuit Judge Paul V. Niemeyer shall serve as Chief Judge for purposes of this

matter.

IT IS SO ORDERED.

Roger L. Gregory

Chief Judge

2