

JUL 19 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90080

IN THE MATTER OF A COMPLAINT FILED BY:

IN RE: The Complaint of _____ against United States District
Judge _____ of the United States District Court for the
_____ District of _____, under the Judicial Conduct and
Disability Act of 1980, 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against
United States District Judge _____ (“the Subject Judge”), un-
der the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Conduct
and Judicial-Disability Proceedings of the Judicial Conference of
the United States (“Judicial-Conduct Rules”).

Background

The record shows that in December 2021 Complainant filed an employment discrimination action against multiple defendants. In March 2022 the defendants filed a motion for extension of time to respond to the complaint, which the Subject Judge granted. Complainant then filed a motion for relief from the order, which the Subject Judge denied.

In April 2022 Complainant filed a motion to recuse the Subject Judge, arguing in part that he was “displaying the same conduct (prejudice, partiality, bias, and unreasonable decision making) as he did in a previous case” Complainant had filed. In June 2022 the Subject Judge entered an order denying the motion to recuse, finding the motion failed to satisfy the requirements for an affidavit to be sufficient under 28 U.S.C. § 144 and failed to disclose any extrajudicial bias that would cause a person to harbor doubts about the court’s impartiality as required by 28 U.S.C. § 455.

Complaint

Complainant states the Subject Judge violated multiple Canons of the Code of Conduct for United States Judges by failing to recuse himself from the case. She states her case should be reassigned to a “fair, impartial, non-bias, reasonable decision making judge.” She attached documents to her 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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s order denying the motion to recuse in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decision. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge violated the Code of Conduct for United States Judges, was not impartial, or otherwise engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” under Judicial-Conduct Rule 11(c)(1)(B), and the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has

occurred or that a disability exists,” under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge