

NOV 29 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90158

ORDER

An individual has filed a Complaint against 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.

Background

The record shows that in May 2019 Complainant filed a civil action against a building inspector and two other defendants, and the parties consented to have a magistrate judge conduct all proceedings in the case. The Subject Judge later dismissed the claims against one of the defendants. After additional proceedings, Complainant and the remaining defendants filed motions for summary judgment. In October 2021, the Subject Judge issued an opinion and order granting the defendants' motion for summary judgment

and denying Complainant's motion for summary judgment, finding in part that there was no genuine issue of material fact as to the building inspector's conduct under the Equal Protection Clause.

Complaint

Complainant contends that the Subject Judge stated that "he could see where . . . [the] building inspector had over stepped his boundaries on many things," but later stated at the summary-judgment stage that "he did not see anything wrong with" the inspector's actions.

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. Complainant's allegations concern the substance of the Subject Judge's findings, orders, and opinion in the above-described case, and the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). For that reason, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.

Chief Judge