

JAN 04 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90169

ORDER

An individual has filed a Complaint against a 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.

Background

The record shows that a former political office holder filed a motion seeking, among other things, the appointment of a special master and to enjoin the government from reviewing certain seized materials. Later that month, the government filed a response in opposition to the motion. In September 2022, after a hearing, the Subject Judge issued an order granting the plaintiff's motion in part, authorizing the appointment of a special master to review the seized materials, and temporarily enjoining the

government from reviewing and using the seized materials for certain purposes.

The government filed a notice of appeal and a motion for a partial stay pending appeal, and the Subject Judge entered orders denying the motion for a partial stay and appointing the special master. The government also filed in this Court a motion for a partial stay pending appeal, and this Court granted the motion. This Court later vacated the Subject Judge's September 2022 order and remanded the case with instructions to dismiss the case. The Subject Judge then entered an order dismissing the case.

Complaint

Complainant asserts the Subject Judge "sought to bend the court to the will of the plaintiff by improperly appointing a special master in a case with a set of facts that did not call for one to be appointed," and that there was "no legal basis" for the decision. She contends the Subject Judge appointed the special master to slow a criminal investigation by another branch of government, because of her "political leanings," and to assist the plaintiff "who appointed her to her current position." Complainant asserts the Subject Judge exhibited "blatant and frankly transparent bias," "showed that she had clear conflicts in this case," "acted in support of the conflict" instead of recusing herself, and "tarnished the reputation of the federal court system."

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. To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described case, the allegations are directly related to the merits of the Subject 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 Judge was biased or partial, had a conflict of interest, 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