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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90008 and 11-23-90009

ORDER

An individual has filed a Complaint against one current United States district judge and one deceased 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 in January 2021 a federal grand jury issued an indictment charging Complainant with one count of attempted bank robbery. After a trial before the Second Subject Judge, a jury found Complainant guilty as charged in the indictment. In July 2022, the First Subject Judge signed an order for the Second Subject Judge granting a motion for a competency hearing. The case was then reassigned to the First Subject Judge. Later, the

First Subject Judge issued an order finding Complainant incompetent to proceed and closing the case until he was found able to proceed. There continues to be activity in the case.

Complaint

Complainant alleges the Second Subject Judge and others ignored evidence he presented concerning “the protest” and “did a cut and paste trial” to conceal the truth and keep facts from the jury. He complains that he was subjected to a competency evaluation, and he asserts the First Subject Judge ignored matters, caused him to be abused, allowed his attorney to obtain certain records without his authorization, and violated his rights. He also takes issue with the actions of individuals other than the Subject Judges.

Discussion

The Second Subject Judge

Judicial-Conduct Rule 11(e) states, “The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible as to the subject judge.” The Commentary on Rule 11 states in part, “Rule 11(e) implements Section 352(b)(2) of the Act, which permits the chief judge to ‘conclude the proceeding,’ if ‘action on the complaint is no longer necessary because of intervening events,’ such as a resignation from judicial office.”

To the extent the Complaint concerns the Second Subject Judge, the intervening event of the judge’s death render the

allegations moot or make remedial action impossible. Judicial-Conduct Rule 11(e). For that reason, this Complaint proceeding is **CONCLUDED** to the extent it concerns the Second Subject Judge. The conclusion of this proceeding in part in no way implies that there is any merit to Complainant's allegations against the Second Subject Judge.

The First Subject Judge

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 the Complaint concerns the First Subject Judge, the Complaint fails to present a basis for a finding of misconduct. The allegations that concern the First Subject Judge’s official

actions, rulings, findings, and orders in the above-described case are directly related to the merits of the First 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 First Subject Judge engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED** to the extent it concerns the First Subject Judge.

/s/ William H. Pryor Jr.
Chief Judge