

JUN 14 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90069

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 2020 Complainant filed a *pro se* employment-discrimination complaint against a corporation, and a magistrate judge who is not the Subject Judge was initially assigned to the case. After an attorney entered an appearance on Complainant's behalf, the parties filed a notice consenting the exercise of jurisdiction by a magistrate judge. The case was later reassigned to the Subject Judge as the presiding magistrate judge. Afterward, Complainant's attorney was permitted to withdraw, and Complainant filed a notice of her intention to proceed *pro se*. The

Subject Judge then issued multiple orders on various discovery-related matters, and the defendant moved to dismiss the case.

The Subject Judge dismissed the case with prejudice on the grounds that Complainant had intentionally and in bad faith failed to comply with court orders, failed to comply with her court-ordered discovery obligations, and failed to attend her court-ordered deposition. This Court affirmed the dismissal of her case, determining that the Subject Judge had authority to enter a final judgment because the parties consented to have a magistrate judge preside over the case, that Complainant forfeited her challenge to the dismissal of her case, and that the Subject Judge did not abuse his discretion by failing to recuse himself or by issuing discovery-related orders. Complainant then filed in the district court a second amended motion to vacate the judgment, for a hearing before the chief judge, and for the Subject Judge's recusal, which the Subject Judge denied.

Complaint

Complainant's Complaint consists of the second amended motion to vacate that she filed in the above-described case. In that motion, Complainant alleged that the Subject Judge made "numerous errors of law," was biased against Complainant due to her race and *pro se* status, was biased in favor of the defendants, refused to recuse himself even though he knew he was biased, abused his power, repeatedly and willfully disregarded the law and the Federal Rules of Civil Procedure, violated her constitutional rights, was part of a scheme with the defendant to take advantage of her *pro se*

status, supported the defendant's bad-faith litigation, prohibited her from engaging in discovery, "maliciously delayed discovery matters to favor the Defendant," acted with malice in violating her right to a jury trial, allowed the defendant's attorney to present false information and to perpetuate a fraud upon the court, violated his oath of office, and issued invalid orders that contained false statements. Complainant also states that she never gave the Subject Judge permission to preside over her case, and she takes issue with the actions of individuals other than the Subject Judge.

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 acted with an illicit or improper motive, was biased, discriminated against Complainant, was part a scheme with the defendant, violated his oath of office, made false statements, 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