

JUL 11 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90082

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 in 2021 Complainant filed a civil-rights complaint against one defendant. The defendant later moved to dismiss the complaint. The Subject Judge entered an order granting the defendant’s motion to dismiss on the ground that the court lacked jurisdiction over Complainant’s claims. Complainant then filed a “Motion for New Trial,” which the Subject Judge construed as a motion for reconsideration and denied.

Complaint

Complainant alleges the Subject Judge violated a statutory provision on disqualification by ruling on his motion for reconsideration and failing to “pass the motion” to a “successor 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. All of Complainant’s allegations concern the substance of the Subject Judge’s official actions and orders 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