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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90160 through 11-23-90164

ORDER

An individual has filed a Complaint against two United States district judges and three United States magistrate judges 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 federal grand jury issued a superseding indictment charging Complainant with two crimes. After various proceedings, the case proceeded to trial, and a jury found Complainant guilty as charged in the superseding indictment. The First Subject District Judge sentenced her to a term of imprisonment. On appeal, this Court affirmed her convictions and sentences.

The record also shows that a federal grand jury issued a superseding indictment in a separate case charging Complainant with additional crimes. The case proceeded to trial, and a jury found Complainant guilty as charged in the superseding indictment. The Second Subject District Judge sentenced Complainant to a term of imprisonment to run consecutive to the sentence imposed in her initial criminal case. On appeal, this Court affirmed her convictions and sentences.

Complainant filed motions to vacate, set aside, or correct sentence, 28 U.S.C. § 2255, in connection with both criminal cases. She also filed in each case a motion to recuse in which she alleged that some or all of the Subject Judges discriminated against her because of her race, were biased, denied her justice, “st[ole] Venue” from another district, violated her constitutional rights, and made disparaging remarks about her. She also alleged in connection with her first criminal case that the First Subject District Judge stated “I have to tell the Jury 1 more thing,” and went inside the jury room while the jury was deliberating. In one of the cases, the Second Subject District Judge denied Complainant’s motion to vacate and motion to recuse. The other case remains pending.

Previous Complaint

Complainant filed a previous judicial complaint against the Subject Judges raising various allegations. That complaint was dismissed on the grounds that it was merits-related and based on allegations lacking sufficient evidence. Complainant filed a petition for

review, and the Judicial Council Review Panel affirmed the dismissal and denied the petition for review.

Current Complaint

Complainant repeats many of the allegations she made in her previous judicial complaint, and she takes issue with the order dismissing her previous complaint.¹ Complainant also alleges the First Subject District Judge “knows that going into the jury room on camera while the jury is deliberating is a violation of” the Sixth Amendment and constitutes misconduct, influenced the outcome of her appeal, and denied her a fair trial by appointing her a certain attorney who had previously been removed from her case. She included various documents with her Complaint, including the motion to recuse she filed in both of her § 2255 cases.

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

¹ To the extent Complainant seeks my recusal for ruling on her prior complaint, that request is DENIED.

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.

Furthermore, when a complaint repeats allegations of a previously dismissed complaint, it is appropriate to dismiss those repeated allegations and address only allegations that have not previously been considered. *See* Judicial-Conduct Rule 11(c)(2).

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations are the same as those she raised in her previous complaint, those allegations have already been considered. Judicial-Conduct Rule 11(c)(2). To the extent Complainant's remaining allegations concern the substance of the Subject Judges' official actions, rulings, findings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judges' 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 District Judge improperly entered the jury room during a case or that the Subject Judges 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