

JAN 30 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90009

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 federal grand jury returned a second superseding indictment charging Complainant and multiple codefendants with various crimes. The case proceeded to trial before the Subject Judge, and a jury found Complainant guilty as charged in the second superseding indictment. The Subject Judge sentenced Complainant to a term of imprisonment. On appeal, this Court affirmed.

Complainant filed a motion to vacate, set aside, or correct sentence, 28 U.S.C. § 2255. The Subject Judge later granted the

motion in part and denied it in part, vacated the sentences on four counts because they exceeded the applicable statutory maximum, and denied relief as to the remaining counts.

After a resentencing hearing, the Subject Judge entered an amended judgment sentencing Complainant to a term of imprisonment. On appeal, this Court vacated the amended judgment and remanded to the district court for further consideration in the light of a Supreme Court decision. The Subject Judge then granted the parties' joint motion to dismiss one of the counts. After another resentencing hearing, the Subject Judge entered another amended judgment sentencing Complainant to a term of imprisonment, with the terms on certain counts to run consecutively.

Complaint

Complainant states his attorney informed him that he would be found guilty because the Subject Judge and prosecutor had "it in for" him and were going to make sure he died in prison. He states the charges were based on lies, the trial was orchestrated to find him guilty, and the jury received improper instructions. He also takes issue with the sentence imposed and alleges the Subject Judge denied him equal protection of the law.

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 cases, 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 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