CONFIDENTIAL

Before the Chief Judge of the Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90066

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 the Subject Judge was assigned to a criminal case in which a former political office holder is one of the defendants. The Subject Judge has issued various orders in the case, and the case remains pending.

Complaint

Complainant states that this Court previously ruled that the Subject Judge "abused her discretion in this case in favor of this defendant," and that the Subject Judge "improperly interfered with

and delayed a criminal investigation and prosecution of this defendant." Complainant asserts the Subject Judge "expressed inappropriate bias for the defendant due to his status as a" former political office holder, "signaled clear special consideration for the defendant," "evidenced bias against the government and the current prosecutors in the case," and attacked the integrity of the government without a sound basis.

Complainant contends that the Subject Judge "has since worked hard to protect the defendant's interest to delay the trial of this case until after the election," has "stalled rulings on routine matters," has "treated as credible defense claims that do not deserve the multi-day hearings she has scheduled for them," and recently indefinitely delayed scheduling of a trial. Complainant states, "To deliberately delay an espionage charge trial, in the defendant's interest, until after the Presidential election, will deny the American people any decision by a jury on this question. This is a travesty." He asserts the Subject Judge has shown a "bias justifying recusal" and her "service to the Defendant's desire to delay a trial is itself 'election interference.'" Complainant contends the circumstances show that the impartiality of the Subject Judge, who was appointed by the defendant, must be questioned, and that this Court should remove her from the case and replace her with a different 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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include "an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." The "Commentary on Rule 4" states that "a complaint of delay in a single case is excluded as merits-related."

To the extent the Complaint requests that the Subject Judge be removed from the above-described case, neither the Chief Circuit Judge nor the Judicial Council has the authority to take this action under the Rules for Judicial-Conduct and Judicial-Disability Proceedings. *See* Judicial-Conduct Rule 11 (Chief Judge's Review); Judicial-Conduct Rule 19 (Judicial-Council Disposition of Petition

for Review); Judicial-Conduct Rule 20 (Judicial-Council Action Following Appointment of Special Committee).

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 was biased or otherwise not impartial, acted with an illicit or improper motive, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). *See Straw v. United States*, 4 F.4th 1358, 1363 (Fed. Cir. 2021) ("There is no support whatsoever for the contention that a judge can be disqualified based simply on the identity of the President who appointed him."). Although this complaint process is not the appropriate way to seek review of the Subject Judge's orders, those orders are nevertheless subject to appellate review in the normal course.

For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge