CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-21-90148

IN THE MATTER OF A COMPLAINT FILED BY:

_____

IN RE: The Complaint of _____ against United States District Judge _____ of the United States District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364.

ORDER

_____ ("Complainant") has filed this Complaint against United States District Judge _____ ("the Subject Judge"), under the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States ("Judicial-Conduct Rules").

As an initial matter, after Complainant filed her Complaint, she filed a supplemental statement. The filing of the supplemental statement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in October 2021 Complainant filed a civil rights complaint against three defendants, and several days later, she filed an amended complaint adding an additional defendant. After that, the defendants filed motions to dismiss the amended complaint, motions to strike additional amended complaints that Complainant had filed, and motions to stay discovery. Complainant filed a motion to recuse the Subject Judge in which she alleged he (1) exhibited deliberate indifference that violated her constitutional rights; (2) was listed as a defendant in an amended complaint; and (3) violated her constitutional rights in a previous case.

In late November 2021 the Subject Judge issued an order (1) striking Complainant's third, fourth, fifth, sixth, and seventh amended complaints because they were filed without the defendants' consent and without leave of court; (2) denying the motion to recuse because Complainant failed to show any reason why the Subject Judge's impartiality might reasonably be questioned; and (3) granting the motions to stay discovery. After that, Complainant filed a motion to file an amended complaint and another motion to recuse the Subject Judge. In January 2022 the Subject Judge denied the motion to recuse.

Complaint

Complainant alleges the Subject Judge (1) "exhibited deliberate indifference" to her constitutional rights; (2) violated her constitutional rights "under color of law"; (3) conspired to deprive her of rights in violation of 18 U.S.C. § 241; and (4) should have disqualified himself. She also notes that the Subject Judge ruled against her in a previous case and asserts he "now lacks jurisdiction over [her] amended complaint." She seeks various types of relief.

Supplement

In her supplemental statement, Complainant reiterates her allegations and also alleges the Subject Judge (1) conspired to deprive her of her rights using "threatening tactics and trickery"; (2) violated certain codes of conduct; (3) was biased and prejudiced; (4) deliberately prolonged the case as part of a conspiracy to deprive her of her constitutional rights; and (5) showed that he cannot be impartial and must recuse himself from her case.

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.

To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, findings, rulings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, she provides no credible facts or evidence in support of her claims that the Subject Judge was part of a conspiracy, acted with an illicit or improper motive, or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," under Judicial-Conduct Rule 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge