

MAY 20 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90051 and 11-22-90052

IN THE MATTER OF A COMPLAINT FILED BY:

IN RE: The Complaint of _____ against United States District
Judges _____ and _____ 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 Judges _____ and _____ (collec-
tively, “the Subject Judges”), 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”). Judge _____ became a federal district judge in _____.

I. Background

The record shows that in May 2014 a grand jury issued a second superseding indictment charging Complainant, her husband _____, and another individual with multiple crimes. The indictment specifically charged Complainant with one count each of obstruction of justice, conspiracy to conceal a person from arrest, and making a false statement. The indictment included a forfeiture provision. After various proceedings, in October 2014 the government filed a motion to dismiss all counts against Complainant pursuant to the terms of a plea agreement entered into in another case, and Judge _____ granted the motion.

Meanwhile, _____ case proceeded to trial, and Judge _____, who was not a federal judge at that time, was one of the prosecutors. In August 2014, at the conclusion of the trial, the jury found _____ guilty as charged in the second superseding indictment. In December 2014 Judge _____ entered a Preliminary Order of Forfeiture finding the government was entitled to a personal money judgment of forfeiture against _____ in an amount to be determined.

At a hearing in July 2015, Judge _____ ordered that the preliminary order of forfeiture be made final. A judgment was then entered sentencing _____ to a total term of 327 months of imprisonment, incorporating the December 2014 preliminary order of forfeiture as part of the sentence, and entering a criminal money judgment in an amount over \$550,000 against _____. _____ appealed.

In January 2016 _____ filed in the district court a motion seeking, among other things, to stay the forfeiture order pursuant to Fed. R. Crim. P. 32.2(d). Judge _____ entered an order that, in part, denied _____ motion to stay the order of forfeiture, finding none of the applicable factors weighed in favor of granting a stay. In June 2017 the law firm of _____ (“Claimant”), through its counsel _____, filed a Claim Opposing Forfeiture. In the filing, Claimant stated it had provided legal representation to _____ in 2008 and that in March 2011 a judgment was entered in Claimant’s favor for unpaid legal services; stated that a writ of *feri facias* had been recorded; requested that an order be entered releasing specific real property from the Preliminary Order of Forfeiture; and requested that Claimant be allowed to sell the property and to use the proceeds to satisfy the debt it was owed.

In January 2018 Claimant filed a request for oral argument on its Claim Opposing Forfeiture. In May 2018 Judge _____ entered an Order on Claimant’s Claim Opposing Forfeiture, stating Claimant alleged it held a valid *feri facias* and stating that the real property was no longer subject to the Preliminary Order of Forfeiture except to the extent any post-sale proceeds exceeded all valid liens. The order stated it was prepared and submitted by _____.

In September 2019 this Court issued an opinion affirming in part, reversing in part, and remanding _____ case for resentencing. At the resentencing hearing in August 2021, Judge _____ sentenced _____ to a total term of 216 months of imprisonment. _____ appealed.

II. Complaint

Complainant asserts the Subject Judges broke the law, obstructed justice, and helped their friends take billions of dollars' worth of her property. She asserts that in July 2013 two of those friends extorted her and _____ by threatening to prosecute them with then-prosecutor _____ help if they did not give up certain property. Complainant states that in January 2015, after _____ was charged on "fabricated" charges, she was blackmailed and extorted in the presence of then-prosecutor _____ during a bond hearing, and that she was asked to give up property in exchange for the dismissal of the charges against _____. Complainant states she did not consent, and within a few days, then-prosecutor _____ "brought more fake criminal charges" against her and _____. She states she was later "openly coerced" to plead guilty and was deported with the help of the Subject Judges. She also alleges the Subject Judges helped their friends "loot[]" her property in violation of a bankruptcy judge's order.

Complainant then alleges that Judge _____ committed a crime by using his office to obtain special treatment for his friends, specifically alleging that he, with the "tacit understanding" of then-prosecutor _____, entered the May 2018 Order on Claimant's Claim Opposing Forfeiture, which gave Complainant's property to Judge Batten's longtime friend, _____ of the firm _____. Complainant contends that Judge _____ did not have the authority to release the property under Fed. R. Crim. P. 32.2(d) because _____ direct appeal remained pending. She also states

Claimant failed to file a forfeiture claim objection within 30 days, as required by law. Complainant then states that the Subject Judges “collectively caused” the release of all but one of her real properties, worth over \$2 billion, while _____ direct appeal was pending, and she alleges property was also released to another of Judge _____ friends, _____.

Next, Complainant contends that the Subject Judges allowed _____ partner, _____, to ghostwrite a judicial order, which shows they have no respect for the law. Complainant asserts Judge _____ orchestrated improper *ex parte* communications “repeatedly, brazenly in [the] case for years.” She states that Judge _____ engaged in *ex parte* communications when he “rubber-stamped” the ghostwritten order prepared by _____. Complainant also states that in January 2021 Judge _____ had another *ex parte* communication with _____ attorney, and that his attorney would “vouch” for “this unlawful act.”

Complainant then alleges that in 2010, she went to the court to testify as a victim of an individual’s bankruptcy fraud, and that a certain individual who regularly harassed, intimidated, and terrified her was needlessly brought to the court by “_____ team.” She alleges that in January 2010 the individual, who was the Subject Judges’ friend, sexually assaulted her in an elevator at the courthouse, and that he was later charged with misdemeanor sexual assault and sexual battery. Complainant alleges that in 2014 or 2015 Judge _____ had the assailant participate in _____ criminal case by lying to help obtain his convictions. Complainant also

alleges that Judge _____ brought a certain charge against _____ because his friend was convicted of a sex offense. Finally, Complainant alleges the Subject Judges “used sex addicts” to silence victims, fabricated charges, used false witnesses, fabricated records, engaged in “RICO predicate acts,” obstructed justice, committed mail fraud, intimidated witnesses and victims, and committed bankruptcy fraud. She attached documents to her Complaint.

III. Discussion

A. Judge _____

All of Complainant’s allegations pertaining to Judge _____ concern his actions before he became a United States district judge, and the claims are not cognizable under the Judicial-Conduct Rules. *See* Judicial-Conduct Rule 1(b) (“A covered judge is defined under the Act and is limited to judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363.”); *see also* 28 U.S.C. § 351(d)(1) (defining “judge” as “a circuit judge, district judge, bankruptcy judge, or magistrate judge”).

B. Judge _____

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.

With respect to Complainant’s claim of ghostwriting, this Court has stated, “This circuit and other appellate courts have repeatedly condemned the ghostwriting of judicial orders by litigants,” but that “[t]he fact that a judge allowed a litigant to draft the court’s orders without notice to the opposing party does not automatically invalidate these orders.” *In re Colony Square Co.*, 819 F.2d 272, 274, 276 (11th Cir. 1987). “Such orders will be vacated only if a party can demonstrate that the process by which the judge arrived at them was fundamentally unfair.” *Id.* at 276. “Whether the opposing party had ample opportunity to present its arguments, whether the ruling was correct as a matter of law, and the frequency of the use of orders prepared by a party are relevant factors to consider.” *In re Walker*, 532 F.3d 1304, 1311 (11th Cir. 2008) (quotations omitted).

To the extent Complainant’s allegations concern the substance of Judge _____ official actions, findings, rulings, and

orders in Complainant's and _____ case, the allegations are directly related to the merits of Judge _____ decisions or procedural rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that Judge _____ committed crimes, was part of a conspiracy, used his office to obtain special treatment for friends, engaged in misconduct by signing a forfeiture-related order that stated it was prepared by an attorney, engaged in improper *ex parte* communications, engaged in fraud on the court, obstructed justice, or otherwise engaged in misconduct.

IV. Conclusion

This Complaint "is directly related to the merits of a decision or procedural ruling" under Judicial-Conduct Rule 11(c)(1)(B); "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); and "is otherwise not appropriate for consideration under the Act" under Judicial-Conduct Rule 11(c)(1)(G). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge