

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JUN 16 2022

CONFIDENTIAL

David J. Smith
Clerk

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90064

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”), un-
der 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”).

Background

The record shows that in October 2020 Complainant filed a civil action against multiple defendants pursuant to Title VII of the Civil Rights Act of 1964. She also filed a motion for leave to proceed *in forma pauperis*, which a magistrate judge granted. In April 2022 the Subject Judge issued an order dismissing her complaint as frivolous. The Subject Judge stated that Complainant did not identify how the defendants violated her Title VII rights and that she alleged the defendants asked her inappropriate questions about her race and gender, but she did not list those questions in her complaint.

Complaint

Complainant states the Subject Judge dismissed her case “[o]n the grounds that I did not send in the email,” when the email was in the “paperwork when I filed my Civil Suit.” She states that every time she files a civil action, the Subject Judge determines the case is frivolous and “wants [it] dismissed.” She also asserts the Subject Judge called her at her place of employment, which constituted stalking.

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 findings and order in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge engaged in stalking 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