

SEP 20 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90103

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 in January 2021 a federal grand jury issued an indictment charging Complainant with attempted bank robbery, and the case was assigned to a district judge who is not the Subject Judge. The case proceeded to trial, and a jury found Complainant guilty of the charge in February 2022. In July 2022 the Subject Judge signed an order for the presiding district judge that granted a motion for a competency hearing as to Complainant, and the case was then reassigned to the Subject Judge.

After a competency hearing, the Subject Judge issued an order finding Complainant was not competent to proceed to a *Faretta* colloquy or to sentencing and directing that he be committed to the custody of the Attorney General for treatment. In a separate order, the Subject Judge directed the clerk to close the case for administrative purposes and stated the case would be reopened once Complainant was found able to proceed. The case remains pending.

Complaint

Complainant takes issue with the Subject Judge's orders concerning his competency, alleging the orders were inflammatory and created unnecessary delay. He also takes issue with the actions of his attorneys.

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 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 engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge