

APR 04 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90037

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 2010 a federal grand jury issued a superseding indictment charging Complainant and two codefendants with multiple crimes. Following a trial, a jury found Complainant guilty as charged in the superseding indictment, and the Subject Judge sentenced him to a term of imprisonment. On appeal, this Court affirmed Complainant's convictions. Complainant later filed a motion that was docketed as a motion to amend or correct the judgment, and the next month, the Subject Judge

denied the motion, finding the judgment did not contain any clerical or other error.

Complaint

Complainant alleges the Subject Judge committed fraud in the case, that two counts in the indictment were constructively amended, and that the error in the indictment was “legal in nature.” He attached documents to his Complaint.

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

/s/ William H. Pryor Jr.
Chief Judge