

MAY 11 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90051

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

In her judicial complaint, Complainant alleges that her complaint concerns the Subject Judge’s behavior in four cases, but the record shows that the Subject Judge was not involved in any of those four cases. But the record establishes that the Subject Judge was involved in a different case involving Complainant. In that case, Complainant and another individual filed a lawsuit against three defendants. A magistrate judge later entered an order directing the plaintiffs to file an amended complaint by a certain date. After that date passed, the magistrate judge issued a report

recommending that the complaint be dismissed for failure to prosecute, for failure to comply with court orders, and for failure to state a claim on which relief could be granted. The Subject Judge entered an order adopting the recommendation and dismissing the case without prejudice.

Complaint

Complainant states that she wrote “negative commentary” about the Subject Judge in a blog, and that immediately after becoming aware of the blog, the Subject Judge ruled on Complainant’s cases after two years with no discovery, subpoenas, or judgment. Complainant states she believes the Subject Judge “is too closely involved” with other judges about whom she has complained. She also raises allegations against individuals other than the Subject Judge.

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 order 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 those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge