

MAY 11 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90055

ORDER

An individual has filed a Complaint against a United States magistrate 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 establishes that in 2020 Complainant and another individual filed a civil-rights action against a police department and another defendant, and they also filed motions for leave to proceed *in forma pauperis*. The Subject Judge granted the *in forma pauperis* motions. Approximately one year later, the Subject Judge entered an order finding that the complaint was deficient in several respects and directing the plaintiffs to file an amended complaint. The plaintiffs then filed an amended complaint. Approximately ten months later, the Subject Judge issued a report recommending that

the amended complaint be dismissed on multiple grounds. The district judge adopted the report and recommendation and dismissed the case.

Complaint

Complainant states that her case sat idle until she wrote an article on her blog critical of the Subject Judge and others, and that the Subject Judge recommended that her case be dismissed due to her “personal dislike” of Complainant’s comments. She states the Subject Judge “did nothing on the case for many months and then suddenly and inexplicably dismisses it soon after the blog posts were made public.” Complainant states she “called out the hypocrisy of” the Subject Judge when she refused to allow “certain damaging footage,” and Complainant alleges the Subject Judge had a “personal stake” in making sure a police department’s activities did not become public stemming from the Subject Judge’s previous employment. Complainant then complains the Subject Judge did not allow her to speak on her own behalf and states she is seeking the Subject Judge’s recusal.

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, orders, and report 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 acted with an illicit or improper motive, was biased, retaliated against Complainant, had a conflict of interest, 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