

JUL 24 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90165

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.

As an initial matter, after Complainant filed her Complaint, she filed a supplemental statement. The filing of the supplemental statements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record establishes that Complainant filed a civil-rights complaint and a motion for leave to proceed *in forma pauperis*. The next month, Complainant filed a motion for permission to file electronically that was docketed along with an affidavit, and she later filed a notice stating that her motion and affidavit were improperly docketed as a single filing. Approximately one month later, the

Subject Judge issued an order granting Complainant's *in forma pauperis* motion, directing her to file an amended complaint that corrected certain deficiencies in the original complaint, and denying her motion to file electronically. The Subject Judge also issued an order directing the clerk to file Complainant's affidavit as a stand-alone document. The Subject Judge then issued an order noting that Complainant had emailed multiple court clerks, stating that there were "multiple issues" with the emails, finding that Complainant was on notice that such *ex parte* communications were improper, and stating that the court would consider sanctions if she continued to disregard court orders. Complainant has filed an amended complaint, and the case remains pending.

Complaint

Complainant alleges that the Subject Judge is "deliberately neglecting" the case to deny Complainant justice, unreasonably delayed ruling on her *in forma pauperis* motion, unreasonably failed to acknowledge her communications with the court, failed to order corrective steps after "egregious docketing errors" were made, and "generally fails to acknowledge nor rule upon any motion whatsoever." Complainant also states that a document she submitted was not processed and that she believes the Subject Judge's "malicious instructions to the clerks is the cause."

Supplement

In her supplemental statement, Complainant states that she believes the Subject Judge's orders show that she exhibited "inattentive reading and/or failure to read my filings; unrepentant

intolerance of me; deliberate neglect; retaliatory intimidation and threats to quell my objections and good faith efforts to mitigate [her] harm to me; and obstruction of my access to justice.” Complainant contends that the Subject Judge “undermines the benefit of IFP status,” engaged in “financial bullying,” and obstructed access to the court by denying her motion to file electronically and by requiring her to pay to mail her filings to the court.

Complainant states she believes the Subject Judge’s “inexplicably harmful decisions” are “wholly deliberate expression of bias.” Complainant also takes issue with the Subject Judge’s order concerning *ex parte* communications, contending her communications related solely to procedural matters and that the order constituted retaliation, intimidation, and threats to silence her. Complainant states she believes the Subject Judge is “shielding defendant(s) from consequences of wrongdoing,” that “her actions are bad faith and malice aforethought deliberate,” and the “only other explanations” are that she “is irrational, somehow impaired, mentally ill” or is biased “and does not have the capacity to overcome her failings.” Finally, Complainant states she does not consent to having a magistrate judge exercise jurisdiction in the case and that a new judge must be assigned to the case.

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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as 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 acted with an illicit or improper motive, was biased, retaliated against Complainant, has a disability, 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