

AUG. 12 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90178

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 Complainant filed an amended *pro se* employment-discrimination complaint against multiple defendants, alleging in part that she was discriminated against on the basis of her disability. She also filed a motion for leave to proceed *in forma pauperis* and a motion to appoint counsel. The Subject Judge entered an order granting the *in forma pauperis* motion, denying the motion to appoint counsel, and directing her to file a second amended complaint because her first amended complaint was a shotgun pleading.

Complainant then filed, among other things, a second and third amended complaint and a motion for sanctions alleging that counsel for the defendants had threatened her and made false statements in a certain filing. After additional proceedings, the Subject Judge issued a report recommending that Complainant's third amended complaint be dismissed as a shotgun pleading. Over Complainant's objections, a district judge adopted in part the report and recommendation, dismissed Complainant's third amended complaint with prejudice, and denied all pending motions as moot. This Court affirmed the dismissal of Complainant's amended complaints.

Complaint

Complainant states the Subject Judge "was put on notice of my inability to represent myself due to my mental state and he forced me to move forward in my case while knowing I was incompetent, on medication, seeing a therapist, and seeking the proper medical service for my declining health." She states the Subject Judge "could have asked for a medical evaluation, medical records, or something before intentionally causing me harm," and that she is filing the Complaint because of the Subject Judge's "willful violations of my civil rights as a disabled incompetent pro se litigant, failure to report attorney misconduct, and giving such a harsh judgment." She contends the Subject Judge was biased and prejudiced against her due to her medical condition and failed to provide her a reasonable accommodation. Next, she alleges that the Subject Judge ignored misconduct by the defendants' attorney and allowed the attorney to abuse her, lie to the court, and "use deceitful

tactics,” which “had a negative impact on my sanity.” She also complains about delay in the case. She attached documents to her 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.

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, report and recommendations, 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, discriminated against Complainant on the basis of a disability, was biased or prejudiced, 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