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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90215

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 establishes that Complainant pleaded guilty to a criminal charge and was sentenced to a term of imprisonment. He later filed a motion to vacate, set aside, or correct his sentence, 28 U.S.C. § 2255. A magistrate judge issued a report recommending that the motion to vacate be denied.

Over Complainant's objections, the Subject Judge entered an order adopting the report and recommendation and denying the motion to vacate. The Subject Judge stated that at his plea hearing, Complainant admitting to committing a crime of violence and that

his actions constituted a violent crime. This Court denied Complainant's application for a certificate of appealability. Complainant later filed in the district court a motion for relief from judgment, which the Subject Judge denied for "several reasons," including that the motion was untimely.

Complaint

Complainant contends the Subject Judge failed to determine that he violated a particular statute, and he alleges the Subject Judge "misrepresent[ed] the truth" in her order denying his motion to vacate when she stated that the court found certain actions constituted a violent crime and that he did not argue that the finding was in error. He alleges the Subject Judge abused her power and violated her oath to apply the law equally to all.

Complainant then alleges that the Subject Judge found that his post-judgment motion was untimely because she "makes her own rules." Complainant states the Subject Judge is either "intentionally and willfully blocking any attempt I make to receive justice or she is suffering from a disability which is preventing her from executing proper judgment."

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 acted with an illicit or improper motive, made misrepresentations, abused her power, violated her oath of office, suffered from 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