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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90016

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 was charged by information on one count of conspiracy to commit wire fraud. The record also establishes that, in a separate case, a federal grand jury returned a superseding indictment charging Complainant and multiple codefendants with various crimes. In both cases, Complainant filed a motion seeking to dismiss the case due to the government's failure to provide discovery. The government filed a response opposing Complainant's discovery-related motions, stating it had complied with its discovery obligations and that it was producing

certain items as supplemental discovery. The cases remain pending.

Complaint

Complainant states that, after previously stating it had provided her with all discovery, the government provided her with supplemental discovery that included multiple “seizure warrants which were backdated and signed electronically by” the Subject Judge. She contends that if the warrants had been signed and issued prior to the seizures, the government would have been able to provide them earlier, and she states the warrants were not provided for more than two years after the initiation of the first case. She also states “the validity of the warrants is concerning for multiple reasons.” Complainant alleges that “improper motives have caused extensive prejudicial delay to the effective and expeditious administration of the business of the Court,” and she contends the Subject Judge violated multiple canons of the Code of Conduct for United States Judges and her constitutional rights. She also takes issue with the actions of individuals other than the Subject Judge, alleges that transcripts have been altered, and 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 decisions and official actions in connection with the above-described cases, 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 acted with an illicit or improper motive, improperly backdated documents, violated the Code of Conduct for United States Judges, 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