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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90020

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 filed a civil complaint against one defendant. She later filed a motion for clerk’s entry of default, which a magistrate judge granted. The defendant filed a motion to set aside the clerk’s default, and Complainant filed a motion for default judgment. The Subject Judge entered an order finding the defendant established good cause to vacate the default, granting the motion to vacate the default, and directing Complainant to show why the case should not be dismissed based on *res judicata*. Complainant filed a motion for reconsideration. The

Subject Judge then entered an order denying the motion for reconsideration and dismissing the case as barred by *res judicata*.

Complaint

Complainant alleges the Subject Judge caused an “unjust outcome that seems designed to obscure the clear evidence of fraud and misconduct committed by” the defendant and its attorneys. She states that the Subject Judge’s decision to vacate the clerk’s entry of default despite the defendant’s failure to respond “raises significant questions of fairness, bias, and judicial misconduct,” and she contends the Subject Judge misapplied the law by relying on *res judicata* when the prior case was dismissed on procedural grounds. She further alleges the Subject Judge “violated judicial procedures,” failed to “adhere to the fundamental principles of justice,” disregarded evidence, failed to properly consider evidence of fraud, failed to rule on her motion for default judgment, engaged in a “gross abuse of discretion,” failed to comply with a statute mandating his recusal, was biased and prejudiced, and attempted to obstruct her “pursuit of justice.”

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, findings, rulings, 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 or otherwise not impartial, 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