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David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90198

ORDER

An individual has filed a Complaint against a United States circuit 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 shows that Complainant filed a prior judicial complaint against a United States magistrate judge. The Subject Judge issued an order dismissing the complaint as merits-related and as based on allegations lacking sufficient evidence.

Complaint

Complainant takes issue with the Subject Judge’s “handling and dismissal” of her previous judicial complaint. She alleges the Subject Judge “misapplied Judicial-Conduct Rule 4(b) to dismiss

serious allegations of suppression, docket manipulation, false filings, and retaliatory obstruction as ‘merits-related.’” She also alleges the Subject Judge “deliberately mischaracterized” her allegations as merits-related, abused his judicial office to “sabotage access to justice,” acted to protect a colleague, and “displayed institutional bias.” She also requests that the matter be transferred to the judicial council of another circuit.¹ 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.

¹ Complainant’s request to transfer this proceeding is DENIED.

In addition, the “Commentary on Rule 4” provides:

The phrase “decision or procedural ruling” is not limited to rulings issued in deciding Article III cases or controversies. Thus, a complaint challenging the correctness of a chief judge’s determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related — in other words, as challenging the substance of the judge’s administrative determination to dismiss the complaint — even though it does not concern the judge’s rulings in Article III litigation.

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 order dismissing her previous judicial complaint, 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, abused his office, used his office to obtain special treatment for a colleague, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ Adalberto Jordan

Acting Chief Judge