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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90214

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 a federal grand jury returned an indictment charging Complainant with two crimes. A magistrate judge entered an order directing that Complainant be detained pending trial, and Complainant filed a motion to revoke the detention order. At a hearing, the Subject Judge stated he believed Complainant's particular circumstances and relationship with her child made her more of a flight risk, and he denied the motion to revoke the detention order. At trial, a jury found Complainant guilty as charged in the indictment. The Subject Judge later sentenced

Complainant to a term of imprisonment. This Court affirmed, holding in part that the district court did not commit error in connection with the jury instructions.

Complaint

Complainant alleges the Subject Judge's "conduct and remarks" throughout the case reflected "his personal opinions, personal bias and/or prejudice," and she takes issue with his findings and characterization of evidence. She alleges the Subject Judge allowed exculpatory evidence to be suppressed, failed to consider mitigating evidence, allowed the government to submit false statements, relied on those false statements, permitted lay witness testimony, did not allow certain witnesses to testify, inaccurately summarized her trial testimony, incorrectly instructed the jury, failed to instruct the jury on state of mind and entrapment, made sentencing findings that required jury findings, improperly weighed sentencing factors, relied on improper factors, retaliated against her at sentencing by imposing an overly harsh sentence, and "allow[ed] incongruency between the indictment, trial argument, jury instruction, jury verdict form, sentencing, and final judgment, among other constitutional violations."

Complainant takes issue with the Subject Judge's finding that she was a flight risk because she was a parent, stating, "[b]y this logic, every abused woman or mother of an abused child, or even every parent, would be denied home detention." She contends her case was compared to a high-profile murder case multiple times, which established prejudice. She also contends the Subject

Judge made biased statements at multiple hearings and made statements reflecting a “perception of insensitivity towards violence against children.”

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, retaliated against her, 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