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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-26-90032

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 filed a civil complaint and moved for leave to proceed *in forma pauperis*, which the Subject Judge denied. Complainant then moved for a determination of whether his “tendered instrument” constituted payment of the filing fee. The Subject Judge entered an order stating that it was unclear how any of Complainant’s documents served as payment and directing him to the court website for instructions about paying the fee. Complainant then moved again for a determination of whether his tendered materials constituted payment. The Subject

Judge entered an order again stating it was unclear how Complainant's documents served as payment and directing him to pay the filing fee within 14 days. A district judge later dismissed the case due to Complainant's failure to comply with the order.

Complaint

Complainant states he "tendered instruments asserted to constitute payment," but the Subject Judge repeatedly issued orders stating it was unclear how the materials served as payment and directing him to pay despite "prior tender and repeated clarification." Complainant states the orders "did not identify specific deficiencies in the explanations or instruments" and instead "reflected continued ambiguity without guidance." He contends that the Subject Judge's finding that it was "unclear" how the materials served as payment established that she had difficulty with "[p]erception and recognition of written materials," "[r]eading comprehension," "[c]ognitive integration of repeated information," "[e]xecutive judgment in resolving a discrete issue," and "[c]onsistency in decision-making." He states his Complaint "raises a good-faith concern" that the Subject Judge suffered from a "temporary or permanent functional limitation" that affected her "judicial capacity."

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 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 engaged in misconduct or suffered from a disability. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge