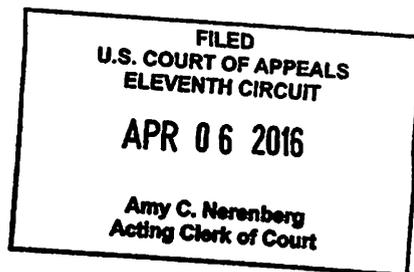


**CONFIDENTIAL**

**BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT**



**Judicial Complaint Nos. 11-16-90017 and 11-16-90018**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

---

IN RE: The Complaint of \_\_\_\_\_ against U.S. Magistrate Judge \_\_\_\_\_  
and U.S. District Judge \_\_\_\_\_ of the U.S. District Court for the \_\_\_\_\_  
District of \_\_\_\_\_, under the Judicial Conduct and Disability Act of 1980,  
Chapter 16 of Title 28 U.S.C. §§ 351-364.

---

**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States Magistrate Judge \_\_\_\_\_ and United States District Judge \_\_\_\_\_ (collectively, “the Subject Judges”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

**Background**

The record shows that in April 2014 a federal grand jury indicted Complainant on one count of possession of a firearm by a convicted felon. In June 2014 Complainant, through counsel, filed a motion to suppress certain evidence and statements obtained as a result of a search of his residence, arguing that the search warrant affidavit contained material and reckless misstatements and omissions, such that probable cause did not exist to support the warrant. In July 2014 Complainant filed a motion to compel, requesting an order directing a sheriff’s department and a county jail to produce records sought by subpoena. A couple of days later, Judge \_\_\_\_\_ ordered the sheriff’s department and county jail to produce the requested information. Complainant later filed a “Motion to Show Cause,” arguing that the sheriff’s department and jail had still failed to provide the requested information. In October 2014 he filed an amended motion to suppress evidence and statements.

After that, the grand jury issued a superseding indictment adding charges of possession with intent to distribute cocaine and possession of a firearm during and in relation to a drug-trafficking crime. After a suppression hearing on October 30, 2014, Judge \_\_\_\_\_ issued a report recommending that Complainant’s amended motion to suppress be denied, finding that probable cause existed to support issuance of the search warrant even when the challenged statements were removed from the supporting

affidavit. Complainant filed objections to the report and recommendation. In June 2015 Judge \_\_\_\_\_ issued a supplemental report in which he determined that Complainant failed to show that an officer intentionally or recklessly disregarded the truth when he included some of the challenged statements in the affidavit or that material information was omitted from the affidavit. Judge \_\_\_\_\_ again recommended that the amended motion to suppress be denied, and Complainant filed objections to the supplemental report.

In July 2015 Judge \_\_\_\_\_ denied the amended motion to suppress, adopting Judge \_\_\_\_\_ recommendations but not all of his reasoning. Judge \_\_\_\_\_ found that the search warrant affidavit was not sufficient to support a warrant if the challenged statements were omitted but agreed with Judge \_\_\_\_\_ that suppression of the evidence was not warranted because Complainant had failed to show that the officer intentionally or recklessly disregarded the truth when he included certain statements in the affidavit. In December 2015 the case was reassigned to a different district judge, and Judge \_\_\_\_\_ was no longer assigned to the case.

In January 2016 Complainant, now proceeding pro se, filed a motion seeking a second suppression hearing, arguing that he had newly discovered evidence relevant to the issue. He also filed a "Motion for an Ex Parte Hearing" in which he alleged that Judge \_\_\_\_\_ and others had conspired to obstruct justice in connection with a subpoena directing a hotel to produce certain records. The district judge construed the Motion for an Ex Parte Hearing as a motion seeking enforcement of a subpoena duces tecum and referred it to Judge \_\_\_\_\_. After a hearing on January 26, 2016, Judge \_\_\_\_\_ issued a report recommending that the motion be denied, finding that: (1) Complainant was attempting to re-litigate his argument that false information was included in the search warrant affidavit; (2) the subpoena return was complete; and (3) his objections to the information he received and the manner in which it was received were meritless.

On February 17, 2016, Judge \_\_\_\_\_ held an evidentiary hearing on Complainant's motion for a second suppression hearing. After that, Judge he issued a report recommending that various motions be denied, including the motion for a second suppression hearing. Judge \_\_\_\_\_ noted that Complainant had become disruptive at the hearing and had told the court that he did not want to continue, and Judge \_\_\_\_\_ generally found that Complainant had not presented anything that would change the court's opinion on the suppression issue. Over Complainant's objections, in March 2016 the district judge entered an order adopting Judge \_\_\_\_\_ report and recommendation with additions, and denied Complainant's motion for a second suppression hearing and other motions. After that, the case proceeded to trial, and a jury found Complainant guilty as charged in the superseding indictment.

The record also shows that in September 2015 Complainant filed a petition for writ of mandamus with this Court, generally challenging the district court's denial of his motion to suppress. In November 2015 this Court denied the petition because Complainant had failed to demonstrate that his right to relief was "clear and indisputable." Complainant filed a motion for reconsideration, which this Court denied.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that there has been a "high level of corruption" in his case since February 2014, and he generally alleges that the Subject Judges are conspiring with others to illegally prosecute him. He complains that at the suppression hearing in October 2014, Judge \_\_\_\_\_ "did not do anything" and gave others time to "modify the evidence." He takes issue with Judge \_\_\_\_\_ actions in connection with a subpoena directed to a certain hotel, and he alleges that "the Judge and his conspirators clearly added" names to the subpoena. He asserts that at the hearing on January 26, 2016, Judge \_\_\_\_\_ "showed his corruption" in addressing the subpoena issue.

Complainant complains that certain discovery was not produced. He takes issue with the actions of his attorneys and alleges, among other things, that they failed to obtain discovery and deliberately ignored certain facts. Finally, Complainant alleges that the Subject Judges are conspiring to illegally prosecute him, to falsify documents, and to coerce witnesses. He asserts that he fears for his life based on his belief that if the Subject Judges have "conspired to this degree, they will kill [him] to continue the cover up." He attached various documents to his Complaint.

### Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[a]n allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related." *Id.* The "Commentary on Rule 3" states in part:

Rule 3(h)(3)(A) 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 power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge's ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

To the extent Complainant's allegations concern the substance of the Subject Judges' official actions, findings, reports, and orders entered in the case, the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his allegations that the Subject Judges were corrupt, were part of a conspiracy, falsified documents, coerced witnesses, participated in a "cover up" or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



---

Chief Judge