

OCT 14 2016

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint Nos. 11-16-90058 through 11-16-90060**

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

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IN RE: The Complaint of \_\_\_\_\_ against U.S. District Judge \_\_\_\_\_ and  
U.S. Magistrate Judges \_\_\_\_\_ and \_\_\_\_\_ 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.

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**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States  
District Judge \_\_\_\_\_ and United States Magistrate Judges \_\_\_\_\_ and \_\_\_\_\_  
(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 January 2010 Complainant filed a lawsuit against a state  
court judge and other defendants, alleging that the defendants had conspired to deprive  
him of his Seventh Amendment right to a jury trial in connection with a state court case.  
The defendants filed motions to dismiss the case. In March 2010 Judge \_\_\_\_\_  
recommended that the action be dismissed for lack of subject matter jurisdiction pursuant  
to the Rooker-Feldman doctrine. Over Complainant’s objections, Judge \_\_\_\_\_  
adopted the recommendation and dismissed the case. This Court affirmed the district  
court’s judgment on appeal.

The record also shows that in November 2011 Complainant filed a lawsuit against  
a state court judge and others, generally alleging that the defendants had violated his  
constitutional rights. The defendants filed motions to dismiss the case. In late-November  
2011 Judge \_\_\_\_\_ recommended that the motions to dismiss be granted and that the  
case be dismissed for lack of jurisdiction pursuant to the Rooker-Feldman doctrine, or, in  
the alternative, as barred by the doctrine of collateral estoppel. Over Complainant’s  
objections, a district judge who is not one of the Subject Judges adopted the  
recommendation and granted the defendants’ motions to dismiss.

The record shows that in September 2015 Complainant filed a civil action against a state court judge and another defendant, alleging that the defendants had violated his constitutional rights in connection with a state court case. The defendants filed a motion to dismiss. In February 2016 Judge \_\_\_\_\_ recommended that the case be dismissed for lack of subject matter jurisdiction and, alternatively, because the claims were time-barred. Judge \_\_\_\_\_ noted that the case was essentially Complainant's fourth attempt to appeal a state court decision in federal court. Over Complainant's objections, in April 2016 Judge \_\_\_\_\_ entered an order adopting the recommendation to the extent it recommended dismissal for lack of jurisdiction under the Rooker-Feldman doctrine, granting the defendants' motion to dismiss, dismissing the case without prejudice, and denying a motion to compel that Complainant had filed.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that over the past eight years, the district court "should have known that [he] was telling the truth based on the evidence and actions of the state court actors." He asks, "Where is the integrity of the court if they cannot look at the evidence presented to them and see the conspiracy to deprive" him and his family of their constitutional rights. Complainant takes issue with Judge \_\_\_\_\_ statement that Complainant was trying to get the court to overturn a state court's decisions. He also takes issue with Judge \_\_\_\_\_ statement that the court was unable to discern the substance of his claims, and he asserts that Judge \_\_\_\_\_ "failed to acknowledge the fact the case went before the Supreme Court of the United States and that the waivers were presented to them." He notes that various cases he filed were dismissed without prejudice, and he questions why Judge \_\_\_\_\_ did not dismiss the most recent case with prejudice.

Complainant states that in the cases he filed in the district court, "all have shown evidence that is vital for the state court decisions to be vacated," but that the Subject Judges "will NOT perform their due diligence. They would rather continually and willfully participate in the ongoing conspiracy to show their loyalty to the state court actors." Complainant alleges that the Subject Judges are continuing a conspiracy to violate his civil rights by "continuing not to vacate this void judgment," and that they "keep concealing the fact they know a crime has been committed" and "consistently fail to acknowledge a crime has taken place."

### 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, recommendations, and orders entered in the cases, the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his allegations that the Subject Judges were part of a conspiracy, concealed that a crime was committed, 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**.



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Chief Judge