BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-21-90047

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States District Judge _____ of the United States 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 District Judge _____ (the "Subject Judge"), 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

In his Complaint of Judicial Misconduct or Disability, Complainant indicates his Complaint concerns the Subject Judge's conduct in a criminal case in which Complainant was not a party. In that case, in July 2019 a defendant was charged by information with two offenses, and the defendant later pled guilty to the charges. In February 2020 the Subject Judge sentenced the defendant to a total term of 60 months of imprisonment.

After that, the defendant filed a motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). In December 2020 the Subject Judge issued an order denying the motion as procedurally defective and for failure to establish entitlement to the relief sought. The defendant filed multiple motions seeking reconsideration, and the Subject Judge denied those motions.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge "avoided" his constitutional duties, "allowed an illegal process of 'law' to detain" the defendant, "ignored his congressional directives," allowed the adjudication of the case when the United States was not harmed by the defendant's actions, refused to recognize his lack of authority, is "allowing a man to die," and engaged in conduct that is treasonous.

<u>Discussion</u>

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, "Allegations Related to the Merits of a Decision or Procedural Ruling," 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" states in part:

> 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.

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. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge 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**.

<div align="center">

<u>/s/ William H. Pryor Jr.</u>
Chief Judge

</div>