

JUL 26 2022

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90089

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**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 shows that in October 2018 Complainant filed a prisoner civil rights action against multiple defendants. He also filed a motion for leave to proceed *in forma pauperis*, which a magistrate judge granted. After additional proceedings, in March 2020 Complainant filed a sixth amended complaint, alleging in part that he had been denied medical care for skin cancer. The next month, a magistrate judge issued a report recommending that the sixth amended complaint be dismissed for failure to state a claim on

which relief could be granted. In May 2020 the Subject Judge issued an order accepting the report and recommendation in part and dismissing all claims except for a claim related to a failure to treat a cancerous lesion diagnosed in November 2018. In November 2020 the remaining defendants filed a motion to dismiss the sixth amended complaint.

Complainant filed a motion for a preliminary injunction. A magistrate judge then issued a report recommending that Complainant's sixth amended complaint be dismissed for abuse of judicial process, or, alternatively, that the defendants' motion to dismiss be denied. The magistrate judge also issued a report recommending that Complainant's motion for injunctive relief be denied. The Subject Judge then entered an order denying the defendants' motion to dismiss but dismissing the claims against one defendant in his individual capacity. In May 2021 the Subject Judge entered an order denying the motion for injunctive relief as moot and setting the case for trial.

The defendants filed motions for summary judgment. In November 2021 the Subject Judge entered an order granting the defendants' motions for summary judgment, finding there was no evidence that the defendants had a role in blocking proper medical treatment and no evidence that Complainant's treatment was based on a policy or custom. Complainant filed a motion for relief from the order, which the Subject Judge denied. Complainant then filed two additional documents that the Subject Judge ordered stricken.

## **Complaint**

Complainant asserts the Subject Judge acted with “depraved indifference” to Complainant’s failure to receive proper medical care for his malignant tumors at his place of incarceration. He states that the dismissal of his case seeking medical care constituted judicial misconduct and that his tumors have worsened due to the Subject Judge’s “malevolence.” Complainant alleges the Subject Judge showed “extreme bias,” violated his oath of office, and “committed perjury pursuant to oaths of justices and judges to administer justice equally and impartially.” Finally, he states the Subject Judge was motivated by his belief that “prisoners are not entitled to substantive rights secured by the Constitution.” He attached documents to his Complaint.

## **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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. 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, violated his oath of office, committed perjury, or otherwise engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” under Judicial-Conduct Rule 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,” under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge