

AUG. 25 2022

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90096

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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 June 2021 Complainant, through counsel, filed a civil complaint against a company raising claims under the Americans with Disabilities Act. After a mediation did not result in a settlement, Complainant’s attorney moved to withdraw. Complainant then filed a motion for leave to proceed *in forma pauperis* (IFP). In July 2022 the Subject Judge entered an order granting the motion to withdraw and denying the IFP motion because the

filing fees had been paid. Complainant filed another IFP motion, which the Subject Judge denied.

Complainant then filed a motion to disqualify the mediator and the defendant's attorney, a notice of appeal as to the order granting his former attorney's motion to withdraw, and a motion to proceed IFP on appeal. The Subject Judge entered orders denying the motion to disqualify and denying the IFP motion because the appeal was frivolous.

### **Complaint**

Complainant appears to take issue with the Subject Judge's orders denying his motion to disqualify and motion for leave to appeal IFP, and he appears to allege that the Subject Judge violated his rights.

### **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.

All of Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described case, and the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings.

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). For that reason, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge