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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90143

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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 a former political office holder filed a motion seeking, among other things, the appointment of a special master and to enjoin the government from reviewing certain seized materials. Later that month, the government filed a response in opposition to the motion. After a hearing, the Subject Judge issued an order granting the plaintiff's motion in part, authorizing the appointment of a special master to review the seized materials, and temporarily enjoining the government from

reviewing and using the seized materials for certain purposes. The next day, the Subject Judge denied a motion for leave to file an *amici curiae* brief that certain former government officials had filed, stating she did not find the proposed appointment of *amici curiae* to be warranted.

The government filed a notice of appeal and a motion for a partial stay pending appeal, and the Subject Judge entered orders denying the motion for a partial stay and appointing the special master. The government also filed in this Court a motion for a partial stay pending appeal, and this Court later granted the motion.

Afterward, the special master issued an Amended Case Management Plan directing the parties to take various actions by certain deadlines, and the plaintiff filed objections to the amended plan. The Subject Judge then issued an order accepting in part and rejecting in part the amended plan, finding the order appointing the special master did not contemplate certain aspects of the plan, and extending certain deadlines.

### **Complaint**

Complainant alleges the Subject Judge abused her judicial office to favor the plaintiff who appointed her by refusing to allow experts to file an *amici curiae* brief and by issuing a decision that “defied precedent, lacked sound legal reasoning, and could have potentially endangered national security.” Complainant states that, “according to numerous, highly respected legal scholars,” the Subject Judge’s order authorizing the appointment of a special master

and temporarily enjoining the government from reviewing seized documents was “unprecedented and has no legal basis.” Complainant states the decision “could have needlessly endangered national security in pursuit of her stated interest in sparing [the plaintiff’s] reputation . . . and one can conjecture, of delaying or impeding his criminal prosecution.”

Next, Complainant states that, by declining the *amici curiae* brief from “knowledgeable judicial experts,” the Subject Judge “seems to have made it clear that her decision was not based on informed legal reasoning, but was crafted to protect her benefactor.” Finally, Complainant states that the Subject Judge “improperly, and without sufficient reason, interfered with the functioning of a separate branch of government,” and that her order “gave the appearance of prioritizing the protection of her benefactor [the plaintiff] from timely prosecution over the interest of the country.”

### **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.

The Complaint fails to present a basis for a finding of misconduct. 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. Judicial-Conduct Rule 11(c)(1)(B). 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, used her judicial office to obtain special treatment for the plaintiff, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge