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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-22-90151 and 11-22-90152

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**ORDER**

An individual has filed a Complaint against a United States district judge and a United States magistrate 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 June 2021, Complainant filed a civil-rights action against three defendants complaining about the medical care he received at his place of incarceration. In March 2022, the Subject Magistrate Judge entered an order directing the clerk to enter a default against one defendant. The defendant then filed a motion to set aside the default, which the Subject Magistrate Judge granted.

After additional proceedings, the defendants filed motions to dismiss the complaint. In August 2022, the Subject Magistrate Judge issued an order and report in which he, among other things, denied various motions Complainant had filed and recommended that the defendants' motions to dismiss be granted due to Complainant's failure to exhaust his administrative remedies. Over Complainant's objections, the Subject District Judge entered an order adopting the report and recommendation and granting the defendants' motions to dismiss.

The record also shows that in May 2022 Complainant filed a civil-rights action against two attorneys. A magistrate judge who is not the Subject Magistrate Judge issued a report recommending that the complaint be dismissed as frivolous. Over Complainant's objections, the Subject District Judge entered an order adopting the report and recommendation and dismissing the complaint as frivolous.

### **Complaint**

Complainant contends that the Subject Judges improperly denied him relief in the above-described cases. He alleges the Subject Judges violated their oaths of office, abused their power and authority, were not impartial, showed favoritism, "play[ed] with [his] emotion," and did not care about his medical condition.

### **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 Judges’ official actions, rulings, findings, reports, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judges’ 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 Judges violated their oaths of office, abused their power and authority, were not impartial, 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