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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. 11-22-90167

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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. Complainant later filed a supplemental statement as permitted. *See* 11th Cir. JCDR 6.7.

**Background**

The record shows that in 1998 a jury found Complainant guilty of three drug-related offenses, and the Subject Judge sentenced him to a total term of life imprisonment. In April 2019, Complainant filed a motion for a sentence reduction under the First Step Act. At a hearing on the motion, the government argued in part that Complainant should not receive a reduction because he had threatened a prison staff member with bodily harm. The

Subject Judge then described Complainant's criminal history as stated in his Presentence Investigation Report and his history of mental-health issues. The Subject Judge considered Complainant's post-conviction conduct and found he had "obviously not been rehabilitated as evidenced by his latest incident in prison." The Subject Judge determined that Complainant was eligible for a sentencing reduction, but exercised his discretion to deny the motion. Complainant appealed, and this Court later affirmed the denial of his motion for a sentence reduction and held that his due process rights were not violated when the hearing was held in his absence.

In October 2021, Complainant filed a motion for compassionate release. The next month, the Subject Judge denied the motion for the same reasons the previous motion was denied, specifically, Complainant's "extensive and violent criminal record, as well as his threats to prison officials."

### **Complaint**

Complainant takes issue with the Subject Judge's denial of his motions for a sentence reduction, contending the Subject Judge disregarded his mental-health issues, improperly used his mental illness as grounds for denying him relief, did not allow him to attend the hearing or to present evidence, caused a miscarriage of justice by adopting as fact unsubstantiated claims and allegations, failed to consider mitigating factors, disregarded his potential for rehabilitation, and conspired with a prosecutor to deny him relief. He also raises allegations against individuals other than the Subject Judge, and he attached documents to his Complaint.

## **Supplement**

In his supplemental statement, Complainant complains that the Subject Judge held the hearing on his motion for a sentence reduction in his absence, and he states the Subject Judge denied every motion he filed.

## **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 caused a miscarriage of justice, was part of a conspiracy, 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