

JAN 12 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90178

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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 August 2018 Complainant filed a complaint against multiple defendants, raising, among others, a claim of securities fraud. The defendants later filed motions to dismiss the complaint. In February 2019, Complainant filed a motion to compel a defendant to provide answers to interrogatories. After a hearing, the Subject Judge entered an order granting in part and denying in part the defendants' motions to dismiss, dismissing certain counts, dismissing the remaining counts without prejudice to

the filing of an amended complaint, staying discovery until further order of the court, and deferring ruling on Complainant's motion to compel until the stay was lifted.

Complainant then filed an amended complaint, and the Subject Judge entered an order striking the complaint for failure to comply with the applicable pleadings standards. Complainant filed a second amended complaint and a motion to recuse the Subject Judge, which the Subject Judge denied. The defendants filed motions to dismiss the second amended complaint. After additional proceedings, the Subject Judge entered an order granting the defendants' motions to dismiss, finding Complainant failed to properly allege his federal securities claim and declining to exercise supplemental jurisdiction over his state-law claims. The Subject Judge also reserved jurisdiction to determine whether sanctions were appropriate, referred the sanctions matter to mediation, and directed the clerk to terminate all pending motions as moot.

After mediation resulted in an impasse, the defendants filed motions for sanctions against Complainant. In September 2021, the Subject Judge entered an order determining that Complainant would be sanctioned, finding in part that he brought objectively frivolous claims against certain defendants for an improper purpose. A magistrate judge later issued a report recommending that Complainant be ordered to pay a certain amount of attorney's fees to the defendants, and in September 2022, the Subject Judge adopted the report with a minor modification and directed the clerk to enter judgments in favor of the defendants.

## **Complaint**

Complainant states the Subject Judge is “biased, prejudiced, and has no conception of how to handle a federal case,” and he cites anonymous comments made about the Subject Judge. Complainant asserts the Subject Judge has “obviously been ‘groomed for a higher federal court’ once a certain political party “retake[s] the White House.” He states the Subject Judge ignored his motion to compel for over three years. He then states the Subject Judge should be investigated “to see how many other cases she has been ‘dragging her feet on,’” and that he “believe[s] such an investigation would indicate she needs to be impeached.” 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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, *i.e.*, assigning a low priority to deciding the particular case.”

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 was biased or partial 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