

JAN 17 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90179

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**ORDER**

An individual has filed a Complaint against 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 August 2020 Complainant filed a prisoner civil rights complaint against multiple defendants and a motion for leave to proceed *in forma pauperis*. In March 2021, the Subject Judge issued an order finding Complainant provided inadequate information for the court to determine if he was entitled to proceed *in forma pauperis* and directing him to file an amended complaint and an amended *in forma pauperis* motion.

In November 2022, the Subject Judge issued a report recommending that the action be dismissed due to Complainant's failure to comply with the court's prior order and for failure to state a claim. The Subject Judge also denied Complainant's *in forma pauperis* motion, found that he had abused the judicial process, and directed the custodian of his place of incarceration to forward to the court a percentage of future deposits into his account until the filing fee had been paid in full. Over Complainant's objections, a district judge adopted the Subject Judge's report and recommendation and dismissed the case.

### **Complaint**

Complainant alleges the Subject Judge failed to notify him that action had been taken in the case, acted without his consent, and "deviously" and illegally directed that funds be withdrawn from his account without his authorization or consent, in violation of his constitutional rights and 18 U.S.C. § 241.

### **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, orders, report, and recommendations 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, violated a criminal statute, 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