

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

AUG 15 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90094

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**ORDER**

An individual has filed a Complaint against a former 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. The Subject Judge has retired.

**Background**

The record shows that in 2021 a federal grand jury returned an indictment charging Complainant with one crime, and Complainant moved to dismiss the indictment. The Subject Judge entered an order granting a motion for issuance of a subpoena to a certain company. The Subject Judge later issued a report recommending that Complainant's motion to dismiss the indictment be granted, and a district judge adopted the report and recommendation, granted the motion to dismiss, and dismissed the indictment without prejudice.

The record shows that in 2022 a federal grand jury returned another indictment charging Complainant with one crime, and the company from the first case was also involved in the second case. There continues to be activity in the case.

### **Complaint**

Complainant alleges the Subject Judge engaged in misconduct that undermined public confidence in the integrity and impartiality of the judiciary, created a strong appearance of impropriety, and violated the Code of Conduct for United States Judges. He alleges the Subject Judge engaged in and concealed improper *ex parte* communications with the company involved in his cases, and that the failure to disclose the communications deprived him of his due process rights, helped the prosecution suppress evidence helpful to him, and “confirms her bias and lack of impartiality.” Finally, he requests that the complaint proceeding be transferred to the judicial council of another circuit.<sup>1</sup> He attached documents to his Complaint.

### **Discussion**

Judicial-Conduct Rule 11(e) states, “The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible as to the subject judge.” The Commentary on Rule 11 states in part, “Rule 11(e) implements Section 352(b)(2) of the Act, which permits the chief judge to

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<sup>1</sup> Complainant’s request to transfer the proceeding is DENIED.

‘conclude the proceeding,’ if ‘action on the complaint is no longer necessary because of intervening events,’ such as a resignation from judicial office.”

The intervening event of the Subject Judge’s retirement render the allegations moot or make remedial action impossible. Judicial-Conduct Rule 11(e). For that reason, this Complaint proceeding is **CONCLUDED**. The conclusion of this proceeding in no way implies that there is any merit to Complainant’s allegations against the Subject Judge.

/s/ William H. Pryor Jr.

Chief Judge