

SEP 13 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-23-90105 and 11-23-90106

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**ORDER**

An individual has filed a Complaint against a United States magistrate judge and 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 2023 Complainant filed a petition for writ of habeas corpus, 28 U.S.C. § 2241, taking issue with certain state-court criminal proceedings. The Subject Magistrate Judge issued a report recommending that the petition be dismissed because the court was required to abstain from interfering with the ongoing state criminal proceedings. Afterward, Complainant filed various documents, including objections to the report and a “Demand for a Petition of a Writ of Mandamus” in which he sought an order

directing individuals to take action in his state-court case. The case remains pending.

### **Complaint**

Complainant states the Subject Magistrate Judge’s report and recommendation was “an incompetent decision” intended to prevent him from objecting because he would be in a jury trial in state court. He complains that the case remains pending despite that he objected to the report months ago. He also takes issue with his state-court proceedings, and 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 Magistrate Judge’s report and recommendation and any delay in the case, 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 acted with an illicit or improper motive 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