

OCT 03 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90116 and 11-23-90117

ORDER

An individual has filed a Complaint against a United States district judge and 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 2018 Complainant filed a prisoner civil-rights action against two defendants, and he later filed an amended complaint. A magistrate judge who is not the Subject Magistrate Judge issued a report recommending that the amended complaint be dismissed for failure to state a claim on which relief could be granted. Over Complainant's objections, the Subject District Judge adopted the report and recommendation and dismissed the case.

Complaint

Complainant takes issue with the Subject District Judge's dismissal order issued in the above-described case. He states, "I'm suffering from a 'Judicial Disability' for which I have no control power or form of redress." Complainant raises no specific allegations pertaining to the Subject Magistrate Judge. 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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations concern the substance of the Subject District Judge's dismissal order, the

allegations are directly related to the merits of the Subject District Judge's decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant otherwise provides no evidence to raise an inference that the Subject Judges engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge