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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-23-90123 and 11-23-90124

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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 Complainant filed a *pro se* complaint against a firm about an attempted foreclosure of residential property. The defendant filed a motion to dismiss the complaint and a motion to stay discovery deadlines, and the next day, the Subject Magistrate Judge granted the motion to stay. An individual purporting to be trustee for Complainant then filed multiple amended complaints.

The Subject Magistrate Judge issued an order and report recommending that the motion to dismiss be granted. The Subject Magistrate Judge noted that Complainant had repeatedly filed meritless lawsuits to stall the foreclosure of his property and recommended that he be advised that further meritless complaints would subject him to a filing restriction. Complainant filed objections to the report and recommendation and a motion for a temporary restraining order.

The Subject District Judge later entered an order adopting the report and recommendation, granting the motion to dismiss, and denying the motion for injunctive relief. The Subject District Judge also ordered that Complainant must seek leave of court before filing or removing any action pertaining to the property.

### **Complaint**

Complainant alleges the Subject Judges engaged in misconduct that undermined public confidence in the judiciary, showed “illegitimate favoritism to larger legal firms,” were biased, and created an appearance of impropriety. He states he believes the Subject Judges acted to protect the defendant, which had engaged in illegal activity. He asserts the defendant obtained a favorable judgment in less than 24 hours, when an emergency motion for a temporary restraining order he filed “was not handled with the same time sensitivity.”

Complainant alleges the Subject Magistrate Judge granted the defendant’s motion to stay discovery to help the defendant avoid answering the complaint. He then takes issue with the

Subject Judges’ report and order adopting the report, contending the Subject Judges failed to hold his *pro se* pleadings to a less stringent standard, ignored certain evidence, and “neglected to inquire” about certain matters. He states he “believes without a shadow of a doubt” that the defendant “used the Judge’s office to obtain special treatment and engaged in ex-parte communications in order to gain a favorable judgment within hours/ same day to avoid answering” his complaint. Finally, he alleges the Subject Judges violated canons of the Code of Conduct for United States Judges, 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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations concern the substance of the Subject Judges' official actions, rulings, findings, report, and orders in the above-described 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, were biased or otherwise not impartial, used their office to obtain special treatment for others, engaged in improper *ex parte* communications, violated the Code of Conduct for United States Judges, 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