

FEB 22 2024

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-24-90018

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**ORDER**

An individual has filed a Complaint against 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 a federal grand jury returned a superseding indictment charging Complainant and five codefendants with multiple crimes. The case proceeded to trial before the Subject Judge, and a jury found Complainant guilty on certain counts and not guilty on other counts. The Subject Judge later sentenced him to a term of imprisonment. Complainant's appeal remains pending.

## **Complaint**

Complainant alleges the Subject Judge caused a miscarriage of justice in his case, blocked him from raising a defense of duress, denied him time to prepare a new defense, made statements discrediting his attorney in front of the jury, and violated his constitutional rights. Complainant also asserts that the Subject Judge repeatedly stated at trial “You have a great appellat[e] issue,” and stated at sentencing that this Court “normally agrees with my decisions.” Finally, Complainant asserts that a juror “snore[d] multiple times” during testimony and that the Subject Judge stated “What do you want me to do about it” and that it was the attorneys’ job to keep the jurors awake.

## **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, and orders 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 caused a miscarriage of justice 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