CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-19-90127

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate Judge _____ of the United States District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ ("Complainant") has filed this Complaint against United States Magistrate Judge _____ (the "Subject Judge"), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States ("JCDR").

Background

The record shows that in September 2019 Complainant filed an amended prisoner civil rights action against multiple defendants and a motion for leave to proceed in forma pauperis (IFP). Later that month, the Subject Judge issued a report recommending that the case be dismissed because Complainant failed to disclose and truthfully describe his previous lawsuits and because he was barred from proceeding IFP under the "three-strikes bar" of 28 U.S.C. § 1915(g). In October 2019 a district judge entered an order adopting the report and recommendation and dismissing the case without prejudice.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant asserts that he has been discriminated against in multiple cases because he is poor. He alleges that the Subject Judge is a racist and that he is prejudiced and discriminates against poor inmates. He also appears to allege the Subject Judge breached his duty, caused a miscarriage of justice, and committed treason. Complainant asserts that the Subject Judge has never settled a case involving a poor inmate because he wants money instead of justice.

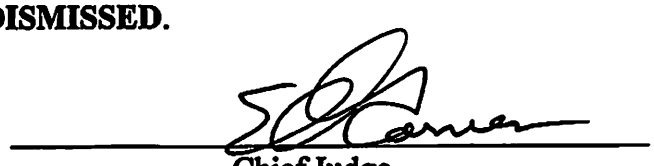
Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, "Allegations Related to the Merits of a Decision or Procedural Ruling," 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" states in part:

> 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.

To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, rulings, findings, and report issued in the case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge discriminated against him, discriminates against poor inmates, was biased or prejudiced, breached his duty, committed treason, or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge