

**CONFIDENTIAL**

**BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT**

**Judicial Complaint No. 11-20-90029**

**FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT**

**JUN 22 2020**

**David J. Smith  
Clerk**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

---

IN RE: The Complaint of \_\_\_\_\_ against United States District 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 District 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 a motion for leave to proceed in forma pauperis (IFP), and a magistrate judge entered an order taking the motion under advisement pending the filing of a complaint. The next month, Complainant filed a complaint against three defendants raising claims under the Medicaid law, and the Subject Judge directed the clerk to cover the matter to a civil case and assign a new case number.

After that, the magistrate judge entered an order taking the IFP motion under advisement pending the filing of an amended complaint, noting it was unclear if Complainant had exhausted his administrative remedies. Later in October 2019, Complainant filed an amended complaint, and a couple of months later, the magistrate judge entered an order again taking the IFP motion under advisement pending the filing of a second amended complaint addressing various issues.

In December 2019 Complainant filed a second amended complaint. He also filed a motion to add a defendant to this case, which the Subject Judge denied as moot the next month. In April 2020 the magistrate judge issued a report recommending that Complainant’s IFP motion be denied and his second amended complaint be dismissed for failure to state a cause of action against any defendant. Over Complainant’s objections,

in mid-April 2020 the Subject Judge entered an order adopting the report and recommendation and dismissing the case.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant complains the Subject Judge failed to act on his IFP motion and his final amended complaint, and he asserts the Subject Judge “never make[s] any attorney[]s wait this long.” Complainant alleges the Subject Judge is violating his constitutional rights and is biased against all parties, and he states the case “seems to be held up for political reasons.” Finally, Complainant suggests the Subject Judge is covering up mistakes or “bad judg[]mental tactics.”

### 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.

In addition, 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” provides 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.”

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in the case, including the allegations of delay, 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 “held up” the case for political reasons, was biased, 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**.

\_\_\_\_\_  
/s/ William H. Pryor Jr.

Chief Judge