

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

SEP 15 2020

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint Nos. 11-20-90058 and 11-20-90059**

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

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IN RE: The Complaint of \_\_\_\_\_ against United States Magistrate Judge \_\_\_\_\_ and 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.

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**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States Magistrate Judge \_\_\_\_\_ and United States District Judge \_\_\_\_\_ (collectively, the “Subject Judges”), 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”).

As an initial matter, after Complainant filed his Complaint, he filed three supplemental statements. The filing of the supplemental statements is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in February 2019 Complainant filed a prisoner civil rights action against two defendants in which he generally alleged he was arrested for a crime he did not commit based on one defendant’s fabricated statements. He also filed, among other things, a motion for leave to proceed in forma pauperis (IFP). In June 2019 Judge \_\_\_\_\_ entered an order: (1) granting the IFP motion; (2) dismissing the claims to the extent Complainant sought declaratory or injunctive relief related to ongoing state court criminal proceedings, pursuant to the abstention doctrine of Younger v. Harris, 401 U.S. 37 (1971); and (3) staying the claims for damages until the pending criminal charges were resolved.

In October 2019 Complainant filed a notice that the criminal proceedings had concluded. Judge \_\_\_\_\_ then entered two orders directing Complainant to file a recast complaint, and Complainant filed two recast complaints. In November 2019 Judge \_\_\_\_\_ issued a report recommending that the case be dismissed without prejudice because the final recast complaint failed to state a claim for malicious prosecution. Judge \_\_\_\_\_ found that a certain charge was not terminated in Complainant’s favor because

it was withdrawn pursuant to a plea agreement, which was a “compromise.” Complainant filed objections to the report, and in July 2020 Judge \_\_\_\_\_ entered an order overruling Complainant’s objections, adopting the recommendation, and dismissing the complaint.

The record also shows that in September 2019 Complainant filed a civil rights action against two law enforcement officers, alleging he was incarcerated based on fabricated statements the defendants made, and he also filed a motion to proceed IFP. In June 2020 Judge \_\_\_\_\_ entered an order granting the IFP motion and directing Complainant to file an amended complaint, and Complainant filed an amended complaint later that month. In July 2020 Judge \_\_\_\_\_ entered an order dismissing the complaint for failure to state a claim of malicious prosecution. Judge \_\_\_\_\_ found that Complainant’s guilty plea amounted to a “compromise,” such that withdrawal of a certain charge against him did not constitute a favorable termination required for a malicious prosecution claim.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that in determining his “case was a compromise,” the “District Court did not follow the guidelines” set by this Court, “thumbed their nose” at this Court, and “made their own rules.” He states that the Subject Judges failed to provide him with a copy of his arrest warrant, and the “only explanation” he sees is that the court was trying to protect, and showed favoritism toward, the defendants.

Complainant asserts the Subject Judges knew his cases were not frivolous, alleges they violated their oaths of office, and states the “whole district is corrupt.” Complainant also contends that he did not receive “any paperwork” in one of his cases for a period of eight months because the defendants falsified evidence, and that the Subject Judges knew the defendants falsified evidence and acted to protect them. Finally, he takes issue with the actions of individuals other than the Subject Judges.

### Supplements

In his first supplemental statement, Complainant asserts that Judge \_\_\_\_\_ did not review Complainant’s objections in one case because, if he had, he would have known the “case was not a compromise.”

In the second supplement, Complainant asserts that the Subject Judges violated their oaths of office. He complains that Judge \_\_\_\_\_ did not obtain a requested recording, which he asserts would have proven his case, and he alleges Judge \_\_\_\_\_ showed favoritism toward the defendant. Complainant then alleges that Judge \_\_\_\_\_ “took the word” of the defendants, “brushed the case to the side,” and tried to “pull the

wool over [this Court's] eyes" in connection with his review of Complainant's objections.

In the third supplement, Complainant initially takes issue with his criminal proceedings. He then states the Subject Judges "said [his] cases were a compromise" and gave the defendants "a pass so they can keep committing felonies against black people."

### 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 Judges' official actions, findings, rulings, report, and orders in the cases, the allegations are directly related to the merits of the Subject Judges' 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 Judges violated their oaths of office, showed favoritism toward, or acted to protect, the defendants, 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.

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Chief Judge