

CONFIDENTIAL

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90060

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

SEP 15 2020

David J. Smith  
Clerk

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

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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.

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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”).

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

Background

The record shows that in January 2013 Complainant filed a lawsuit against multiple defendants, raising claims stemming from his state court criminal proceedings. He also filed, among other things, a motion to proceed in forma pauperis (IFP), which a magistrate judge granted. Later in January 2013, the Subject Judge issued an order dismissing the case as frivolous and directing the clerk not to accept further filings from Complainant in any case absent authorization from a judge, in light of his long history of submitting frivolous filings. After that, Complainant unsuccessfully sought to overturn the Subject Judge’s order. In August 2014 this Court affirmed the dismissal of his complaint, holding his claims were time-barred.

The record also shows that in May and June 2018 the Subject Judge issued orders denying motions for leave to file new civil actions that Complainant had filed, finding the proposed complaints were duplicative and frivolous. Complainant appealed both orders, and this Court later clerically dismissed the appeals for want of prosecution.

In August 2018 Complainant removed a state court case to federal court, and the Subject Judge entered an order remanding the case to state court, finding the court did not have subject-matter jurisdiction over the matter. Complainant appealed, and this Court later clerically dismissed the appeal for want of prosecution.

In January 2019 Complainant filed a motion for leave to proceed IFP. The Subject Judge then entered an order noting that Complainant filed the motion ostensibly for the purpose of filing an omnibus motion concerning prior miscellaneous actions, and denying the motion and closing the case because the court lacked subject-matter jurisdiction to grant prospective relief and, in any event, the matter was frivolous. Complainant appealed, and this Court later dismissed the appeal for want of prosecution.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant generally takes issue with his state court criminal proceedings, alleging he was unlawfully indicted and convicted. He states that the Subject Judge and others misapplied the facts and law “possibly because of previous void proceedings, fraud on the court or ratified corrupt policies and procedures that incorrectly were perceived to excuse or to prevent them from honoring their oaths of office and from performing their constitutionally required affirmative ministerial duties.” Complainant also alleges the Subject Judge denied him meaningful access to the courts and engaged in “intellectual dishonesty.” He attached documents to his Complaint.

### Supplements

In his first supplemental statement, Complainant states “[i]t would seem clear that there has been a misapplication of the underlying facts and a clearly erroneous application of the law” that led to him being denied meaningful access to the courts. He states it appears “courts are trying to satisfy various special interest groups . . . at the expense of the rights of others . . .” He attached various documents to the supplement. In the second supplement, Complainant appears to allege the Subject Judge engaged in misconduct by failing to set aside void state court judgments. He attached documents to the second supplement.

### 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, findings, rulings, and orders in the cases, 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 violated her oath of office 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