CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90062

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").

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 July 2019 Complainant, on behalf of _____, filed a 28 U.S.C. § 2254 petition for writ of habeas corpus, and Complainant later filed other pleadings on behalf of _____. Also in July 2019, the Subject Judge issued an order noting that Complainant was a disbarred attorney and providing _____ an opportunity to submit a personally signed amended petition within 30 days. The next month, the Subject Judge issued a report recommending that the pleadings be stricken and the action be dismissed due to _____ failure to comply with the court's order.

In September 2019 a district judge issued an order adopting the report and recommendation, striking the pleadings, dismissing the case, and referring the matter to the State Bar for its investigation and consideration. After that, Complainant filed multiple motions seeking various types of relief, and the district judge entered orders that, among other things, denied _____ a certificate of appealability (COA).

Complainant also filed a notice of appeal, and in November 2019 this Court entered an order construing the notice as a motion for a COA, dismissing the appeal in

part for lack of jurisdiction as to Complainant, and directing _____ to file a personally signed notice of appeal or have licensed counsel filed a notice of appeal. In February 2020 this Court entered an order denying _____ motion for a COA and dismissing the motion for COA filed by Complainant for lack of jurisdiction.

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, report, and orders 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 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