

CONFIDENTIAL

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90089

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

NOV 25 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”).

Background

The record shows that in November 2018 Complainant, through counsel, filed a lawsuit against a company, raising claims under the Americans with Disabilities Act. In October 2019 Complainant’s attorney filed a motion to withdraw, which the Subject Judge granted. In November 2019 Complainant filed a motion to recuse the Subject Judge in which he alleged she was biased against non-attorneys and that he was being forced to represent himself due to criminal activity committed by the defendant. After various proceedings, in March 2020 the defendant filed a motion for summary judgment, and Complainant later filed a response in opposition.

In July 2020 the Subject Judge issued an order ruling on various motions that had been filed. The order, among other things: (1) denied Complainant’s motion to recuse, finding that he provided no support for his allegation that the Subject Judge was biased against pro se litigants; (2) denied a motion to appoint counsel Complainant had filed, finding he did not establish he was entitled to the appointment of counsel; and (3) granted in part and denied in part a motion of extension of time to conduct discovery that Complainant had filed, finding he did not establish good cause for all of the relief sought but extending the discovery period to allow him to conduct a deposition of an individual that was not to exceed two hours. After that, Complainant filed another motion to recuse the Subject Judge and other documents.

## Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that the Subject Judge's July 2020 order exemplifies how federal courts "intentionally hide civil procedures and refuse[] to follow ordinary civil procedure w[hen] dealing with a non-attorney" and made apparent her "bigotry towards non-attorneys." Complainant then contends that the Subject Judge: (1) intentionally caused damage to his case and claims by not ruling on discovery disputes; (2) made sure he could not get the evidence to prove his case; (3) did not allow him to cross-examine witnesses; (4) imposed "ridiculous time constraints" and did not afford him the amount of time to depose witnesses that an attorney would receive; (5) was "not honest enough with the law" to rule that certain declarations were fraudulent; (6) did not grant his "reasonable and just" motion for an extension of time; and (7) did not afford him "mail time" despite that her office stated that he would receive such time. Complainant asserts the Subject Judge clearly "has not and will not allow due process or a jury trial," and he requests that she be removed from his case. He attached documents to his Complaint.

## 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 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 acted with an illicit or improper motive, was biased against him or non-attorneys, 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