

CONFIDENTIAL

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90156

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

FEB 03 2021

David J. Smith  
Clerk

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 three supplemental statements. The filing of the supplemental statements is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in August 2020 Complainant filed a 28 U.S.C. § 2241 petition for writ of habeas corpus, generally alleging he was being detained in violation of his constitutional rights, and he also filed a motion for leave to proceed in forma pauperis (IFP) and a motion for the issuance of a subpoena. Later that month, the Subject Judge issued an order directing Complainant to either pay the filing fee or file a complete IFP motion and denying the motion for issuance of a subpoena without prejudice.

The next month, Complainant filed an amended IFP motion, as well as a motion to amend his petition in which he argued that certain discovery materials would exonerate him. The Subject Judge then issued an order denying the IFP motion because Complainant had sufficient financial means to pay the filing fee, granting the motion to amend, and instructing Complainant to file his amended petition on the court’s form. After that, Complainant filed: (1) a document that was docketed as a motion to replace an exhibit; (2) a request to withdraw his habeas petition; and (3) a motion to amend his petition.

In October 2020 the Subject Judge issued a report recommending that Complainant's motion to withdraw the petition be granted, the case be dismissed, and his motions to replace and to amend be denied as moot. The Subject Judge found the motion to withdraw should be granted in light of Complainant's failure to comply with the Court's order to amend and his filing of the motion to withdraw. Complainant then filed a letter in which he asserted that documents he filed had been removed from the docket. In November 2020 a district judge entered an order adopting the report and recommendation, granting Complainant's motion to withdraw his petition, and denying pending motions as moot.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states: (1) the court never received exculpatory evidence he submitted; (2) he "would conclude" that the evidence was "stricken, deleted, or stolen from the court record"; and (3) he "would conclude" that the only person who could have done so is the Subject Judge. He also states the Subject Judge issued a "brutal" ruling that would make his request for exculpatory evidence moot, which convinced him that the Subject Judge sabotaged his case by destroying exculpatory evidence.

### Supplements

With the first supplement, Complainant provides reproductions of documents he states were destroyed, deleted, or stolen from the district court's docket. In the second supplement, Complainant generally reiterates his allegations concerning the Subject Judge and takes issue with the actions of other judges. In the third supplement, Complainant asserts that two motions for extension of time he submitted have gone missing, and he included reproductions of those motions.

### 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, rulings, findings, orders, report, and recommendations 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 caused his filings to be improperly removed from the docket, destroyed evidence, 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