

CONFIDENTIAL

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

JUL 22 2021

David J. Smith  
Clerk

Judicial Complaint No. 11-21-90052

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

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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.

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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 a supplemental statement. The filing of the supplemental statement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in March 2016 Complainant filed a *pro se* civil rights action against multiple defendants. Although the Subject Judge was later assigned to the case, he did not take any action in the case.

The record shows that in March 2019 Complainant filed a *pro se* civil rights action against a state and another defendant, and the next month, the defendants filed a motion to dismiss the case. In October 2019 the Subject Judge issued a report recommending that the defendants’ motion to dismiss be granted for various reasons. After that, Complainant filed a notice of voluntary dismissal, and the district judge entered an order directing the clerk to terminate all pending motions and close the case.

The record shows that in March 2019 Complainant filed another *pro se* civil rights action against a state and another defendant, and in September 2019 he filed an amended complaint adding an additional defendant. In October 2019 the state filed a motion to dismiss the amended complaint. After that, the district judge issued orders directing the

clerk to dismiss two of the defendants. In April 2020 the Subject Judge issued a report recommending that the state's motion to dismiss be granted because, among other reasons, the state was not a proper party under the relevant statutes. Complainant then filed a notice of voluntary dismissal, and the district judge dismissed the case.

The record shows that in March 2021 Complainant filed a *pro se* civil rights action against three defendants, and two defendants later filed a motion to dismiss the complaint. In May 2021 the Subject Judge issued a report recommending that the motion to dismiss be granted, finding the claims were barred by the *Rooker-Feldman* doctrine. Two defendants then filed a motion to declare Complainant a vexatious litigant, and in June 2021 the Subject Judge denied the motion without prejudice as premature.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge exhibited a "pattern of misconduct and pro-se bias" in the above-described cases. He asserts the Subject Judge: (1) engaged in and hid his "self-serving" conduct; (2) covered up misconduct; (3) "indirectly trashes pro-se pleadings"; (4) hides information from Article III judges; (5) "blindly accept[ed] so many wrong things from State" and repeated false information from the state; and (6) was "on a Bar committee" and made decisions "to please the Bar." Complainant also states it is "absurd" to claim he is a vexatious litigant, and he requests to have any decision in his most-recent case postponed and to have the Subject Judge removed from the case.

### Supplement

In his supplemental statement, Complainant repeats certain allegations and states that the Subject Judge: (1) should not handle *pro se* cases because such cases require knowledge and understanding he does not have; (2) suffers from an unspecified disability; and (3) violated Complainant's constitutional rights and committed a "crime against humanity" by claiming not to have jurisdiction to correct an obvious injustice.

### 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, reports, recommendations, and orders in the above-described 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 with which Complainant takes issue, he provides no credible facts or evidence in support of his claims that the Subject Judge was biased against *pro se* litigants or in favor of others, covered up misconduct, hid information from other judges, suffered from a disability, 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