

CONFIDENTIAL

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-21-90100

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

OCT 07 2021

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 October 2020 Complainant filed an employment discrimination action against the \_\_\_\_\_. He then filed multiple motions seeking various types of relief, and the defendant filed a motion to dismiss the complaint, arguing it was barred by the doctrine of *res judicata*. On August 9, 2021, the Subject Judge issued an order: (1) dismissing the complaint with prejudice for the reasons stated in the defendant’s motion to dismiss; (2) enjoining Complainant from filing any new action, complaint, or claim for relief against the defendant related to his employment without a member of the Court’s bar signing the paper; (3) stating that any *pro se* papers filed after entry of the order would be stricken and disregarded; and (4) denying his pending motions.

Complainant then filed multiple motions that were ordered stricken, and multiple emails he sent the Subject Judge were also docketed, including emails in which he argued the Subject Judge caused evidence that proved fraud to be stricken. On September 10 and 13, 2021, he filed motions to reopen the case in which he alleged the case had been dismissed based on a fraudulent misrepresentation by the defendant’s counsel that it was barred by *res judicata*, and the motions to reopen were stricken pursuant to the August 9 order.

### Earlier Judicial Complaint

On August 23, 2021, Complainant filed a Complaint of Judicial Misconduct or Disability against the Subject Judge, No. \_\_\_\_\_.

### Current Complaint

In the current Complaint of Judicial Misconduct or Disability, Complainant alleges that on August 23, 2021, the Subject Judge caused two United States Marshals to go to his home to intimidate him for sending her an email in an attempt to stop him from filing a motion to reopen that would expose fraud committed by the defendant's attorney. He also alleges that on September 13, 2021, the Subject Judge had a motion to reopen he had filed stricken to avoid ruling on the motion and in retaliation for Complainant filing a Complaint of Judicial Misconduct or Disability against her.

### 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 above-described case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge tried to intimidate him, sought to avoid ruling on motions because they exposed fraud, retaliated against him, 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