CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

_____

Judicial Complaint No. 11-22-90001

IN THE MATTER OF A COMPLAINT FILED BY:

_____

_____

IN RE: The Complaint of _____ against United States Magis-
trate Judge _____ of the United States District Court for the
_____ District of _____, under the Judicial Conduct and
Disability Act of 1980, 28 U.S.C. §§ 351-364.

ORDER

_____ ("Complainant") has filed this Complaint against
United States Magistrate Judge _____ ("the Subject Judge"),
under the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Con-
duct and Judicial-Disability Proceedings of the Judicial Conference
of the United States ("Judicial-Conduct Rules").

Background

The record shows that in August 2021 Complainant filed a civil rights complaint against an attorney and an affidavit and authorization for withdrawal from his inmate account. In October 2021 Complainant filed a motion seeking to join additional defendants, another affidavit and authorization, and an amended complaint.

Complaint

Complainant states that he provided copies of his civil rights complaint to the court with a self-addressed stamped envelope and requested that a copy be returned to him. He states that he never received a copy and asks whether the Subject Judge engaged in prejudicial conduct by "tak[ing] over" his complaint and not allowing the clerk's office to return a stamped copy to him as he requested and as required by court rules. He also states his request to proceed IFP has not been addressed.

Complainant then states he does not believe the Subject Judge is capable of being impartial in the case. He states he believes the Subject Judge will show favoritism to the defense because, in a previous case, the Subject Judge either overlooked or ignored a claim he raised. He attached documents to his Complaint.

Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

> 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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include "an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." The "Commentary on Rule 4" states that "a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, *i.e.*, assigning a low priority to deciding the particular case."

To the extent Complainant raises an allegation of delay, the allegation is 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 engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," under Judicial-Conduct Rule 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," under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

　/s/ William H. Pryor Jr.　
Chief Judge