

SEP 12 2022

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90101

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**ORDER**

An individual has filed a Complaint against a United States magistrate judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States. The Subject Judge became a United States magistrate judge in 2018.

**Background**

The record shows that in 2022 a sealed search warrant was issued, and the Subject Judge later issued orders unsealing various documents in the case, including a redacted version of the warrant. The warrant showed that it was issued by the Subject Judge and provided for the search of certain premises used or available to be used by a certain former political office holder (the “Former Office Holder”) and his staff members.

The record also shows that in 2022 the Former Office Holder filed a lawsuit against multiple defendants, and the Subject Judge became the assigned magistrate judge in April 2022. In June 2022 the Subject Judge issued a notice recusing himself from the case without providing a reason.

### **Complaint**

Complainant asserts that the Subject Judge engaged in “unethical and prejudicial conduct” by signing the search warrant because he “has a conflict of interest and history of hostility” toward the Former Office Holder. Complainant states the Subject Judge “publicly denigrated” the Former Office Holder in social media posts, and she identifies a post from 2016 in support.

Complainant states the Subject Judge is in a different political party from that of the Former Office Holder, that he made financial contributions to an individual in the Subject Judge’s political party, and in 2015 he made financial contributions to a different individual who ran for political office against the Former Office Holder. Complainant states, “Clearly, [the Subject Judge] is a partisan and has publicly expressed his partisan views against” the Former Office Holder, and that his “antipathy for the [Former Office Holder] is such that he should have recused when presented with the search warrant for the highly problematic search of” the Former Office Holder’s residence.

Complainant then states that the Subject Judge recused himself from the lawsuit filed by the Former Office Holder citing a

conflict of interest, but failed to recuse from the search-warrant matter. Complainant asserts the Subject Judge “has a history of ethical issues,” citing incidents from 2008 in support. Finally, Complainant contends the Subject Judge failed to meet “the standards of ethical conduct and character necessary for the public to have confidence in the nonpartisan role of a judge in a matter of this extreme public interest,” and that the Subject Judge’s actions “threaten[] the principle of ‘equal justice under law’ and the confidence of the American people in an unbiased judiciary.” She attached documents to her Complaint.

### Discussion

Judicial-Conduct Rule 1(b) states, “A covered judge is defined under the Act and is limited to judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363.” *See also* 28 U.S.C. § 351(d)(1) (defining “judge” as “a circuit judge, district judge, bankruptcy judge, or magistrate judge”); *In re Complaint of Judicial Misconduct*, 570 F.3d 1144, 1144 (9th Cir. 2009) (Ninth Circuit order dismissing a judicial complaint to the extent the allegations involved the subject judge’s rulings as a state court judge “[b]ecause the plain language of the Judicial Conduct and Disability Act limits its scope to conduct by federal judicial officers,” and citing, among other things, Judicial-Conduct Rule 11(c)(1)(G)).

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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant’s allegations concern the Subject Judge’s actions before he became a United States magistrate judge, the allegations are not appropriate for consideration under the Act. Judicial-Conduct Rule 11(c)(1)(G). To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described matter, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge was not impartial, engaged in improper political activity, had a conflict of interest, treated individuals in a demonstrably

egregious and hostile manner, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**. The dismissal in part of this Complaint as not appropriate for consideration under the Act in no way implies that there is any merit to Complainant's allegations relating to the Subject Judge's conduct before becoming a United States magistrate judge.

/s/ William H. Pryor Jr.

Chief Judge