

MAY 02 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90046

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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.

**Background**

The record shows that in 2022 Complainant filed a lawsuit against two defendants and a motion for leave to proceed *in forma pauperis*. The Subject Judge issued an order and report granting the *in forma pauperis* motion and recommending that the action be dismissed without prejudice on the ground that the complaint failed to state a claim on which relief could be granted. Complainant then filed a motion for leave to file an amended complaint in the case and in three other cases he had filed.

The district judge issued an order granting Complainant's motion to file an amended complaint in the four cases, directed the clerk to consolidate the cases, and deemed the Subject Judge's report and recommendation moot. Complainant then filed an amended complaint and multiple motions for leave to file an amended complaint. The Subject Judge issued an order directing Complainant to file an amended complaint containing all claims in a single document and denying as moot his motions to file an amended complaint.

The record also shows that in 2023 Complainant filed a petition for writ of habeas corpus, 28 U.S.C. § 2241, raising challenges to his pretrial detention. The Subject Judge issued a report recommending that the case be dismissed without prejudice pursuant to the *Younger* abstention doctrine.

### **Complaint**

Complainant states that the Subject Judge forced him "to use the State's process" even after he attempted to prove the process was ineffective, thus leaving him with no adequate remedy and preventing him from having a trial. He complains the Subject Judge failed to disqualify herself after the district judge determined her report and recommendation had "no practical significance," and he also complains that the Subject Judge repeatedly stated that he was facing criminal charges. Finally, Complainant states the Subject Judge violated her oath, that he believes she was "doing someone a favor," and that she did not faithfully and impartially

perform the duties of her office. 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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, orders, and reports in the above-described cases, 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 violated her oath

of office, did someone a favor, was not impartial, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge