

DEC 15 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-23-90146 through 11-23-90148

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**ORDER**

An individual has filed a Complaint against three United States circuit judges 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 Complainant pleaded guilty to certain crimes in a federal district court and was sentenced to a term of imprisonment. He later filed multiple motions seeking various types of relief, which a district judge denied. On appeal of the denial of the motions, the government filed a motion for summary affirmance, and a panel of this Court composed of the Subject Judges granted the government's motion and affirmed. No motion to seal or motion to strike appears on the appellate docket.

## **Complaint**

Complainant asserts that the Subject Judges' opinion in the above-described appeal included "unauthorized" information that put his life in "grave danger" of retaliation for testifying against a "notorious gang member." He asserts the Subject Judges failed to rule on a motion to seal and a motion to strike that he filed. He also requests that the opinion be sealed, and he takes issue with the action of individuals other than the Subject Judges.

## **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 Judges' official actions and opinion on appeal, the allegations are directly related to the merits of the Subject Judges' 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 Judges engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge