

DEC 18 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90156 and 11-23-90157

ORDER

An individual has filed a Complaint against a United States district judge and 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 Complainant filed a second amended complaint against multiple defendants. He later filed a motion for appointment of counsel, which the Subject Magistrate Judge denied. Afterward, the Subject District Judge entered an order dismissing the second amended complaint due to Complainant's failure to prosecute the case.

Complainant filed a notice of appeal and two motions for leave to proceed *in forma pauperis* on appeal. The Subject

Magistrate Judge issued reports recommending that the motions be denied. The Subject District Judge adopted both reports and denied the *in forma pauperis* motions. Complainant filed motions for reconsideration, which the Subject District Judge denied.

Complaint

Complainant takes issue with the denial of his request for appointed counsel and the denial of his motions for leave to appeal *in forma pauperis*.

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. All of Complainant's allegations concern the substance of the Subject Judges' official actions, rulings, reports, and orders in the above-described case, and the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). For that reason, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge