

JAN 22 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-24-90004 and 11-24-90005

ORDER

An individual has filed a Complaint against a United States magistrate judge and a United States district 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 an amended civil-rights complaint against multiple defendants related to the medical care at his place of incarceration. He also filed a motion for leave to proceed *in forma pauperis* and a motion to appoint counsel. The Subject Magistrate Judge issued an order and report granting the *in forma pauperis* motion, denying the motion for appointment of counsel, directing that Complainant's complaint would proceed against some defendants, and recommending that some claims be dismissed. Complainant then filed another motion for

appointment of counsel, which the Subject Magistrate Judge denied. The Subject District Judge adopted the Subject Magistrate Judge's report and recommendation.

Complainant filed a motion for a preliminary injunction and two motions for summary judgment, and some defendants filed a motion to dismiss. The Subject Magistrate Judge issued a report recommending that Complainant's motion for a preliminary injunction and motions for summary judgment be denied and that the motion to dismiss be denied. The Subject District Judge later adopted the report and recommendation.

Meanwhile, the Clerk entered a default against one defendant, and Complainant filed a motion for default judgment. After a hearing, the Subject Magistrate Judge issued a report recommending that the motion for default judgment be granted. The defendant then filed a motion to set aside default, and the Subject Magistrate Judge issued a report recommending that the motion be granted and directing that the previous report and recommendation be vacated. Complainant filed another motion to appoint counsel, which the Subject Magistrate Judge denied. The Subject District Judge then adopted the report and recommendation, granted the motion to set aside default, and denied Complainant's motion for default judgment. Complainant appealed, and this Court dismissed the appeal for lack of jurisdiction. In the district court, the case was reassigned to another district judge.

The defendants then filed motions for summary judgment. The Subject Magistrate Judge issued a report recommending that

the motions be granted. Over Complainant's objections, a district judge adopted the recommendation and granted the motions for summary judgment.

Complaint

Complainant alleges the Subject Judges discriminated against him, abused their authority and discretion, were biased, allowed prison officials to deprive him of medical care, aided prison officials in violating his Eighth Amendment rights, and set aside a default "for no good reasons." He contends the Subject Magistrate Judge ignored and failed to rule on his motions, allowed the defendants to use his medical records against him, and failed to sanction the defendants when they did not comply with a court order. He also takes issue with the denial of his motions for appointment of counsel. Finally, Complainant states the Subject District Judge had been involved in a previous case he had filed. He included documents with 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 Judges' official actions, findings, rulings, reports, recommendations, and orders in the above-described case, 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 discriminated against him, abused their authority, were biased, 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