

JUN 28 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-24-90075 and 11-24-90076

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 a civil-rights action against multiple defendants complaining about his arrest and prosecution in state court. He then filed a motion to proceed *in forma pauperis*, supplements to his complaint, and an amended complaint. The Subject Magistrate Judge recommended that the case be dismissed and that the motion to proceed *in forma pauperis* be denied because the court lacked jurisdiction to intervene in the ongoing state-court proceedings and the amended complaint failed to state a claim for relief. Over Complainant’s objections, the Subject

District Judge adopted the Subject Magistrate Judge’s recommendation and dismissed the case.

Complaint

Complainant contends that the Subject Magistrate Judge recommended dismissing the case despite that Complainant provided evidence showing that his lawsuit was meritorious, and that the Subject Magistrate Judge made an untrue statement that the state court had probable cause to arrest him. Complainant asserts that the Subject Magistrate Judge “went to the state court [and] spoke to the prosecutor” involved in Complainant’s state-court case, and that the Subject Magistrate Judge informed Complainant “that I wanted the court to do a[n] injunction with the state court which is not true.” Complainant states he was “disappointed” that the Subject District Judge agreed to dismiss the case.

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, report, 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 had improper *ex parte* communications 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