

JUL 12 2024

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-24-90134

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**ORDER**

Two individuals have filed a Complaint against 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 Complainants filed a *pro se* civil-rights complaint against a company alleging race discrimination. They also filed a motion to proceed *in forma pauperis*, which a magistrate judge granted. A little over two months later, the Subject Judge issued an order dismissing the complaint for failure to state claim and giving Complainants an opportunity to file an amended complaint. Complainants then filed an amended complaint, and approximately seven months later, the Subject Judge dismissed the

amended complaint with prejudice because it still failed to state a claim. This Court dismissed their appeal for lack of jurisdiction.

### **Complaint**

Complainants state that their case “sat in the court for 7 months without good cause before it was dismissed with prejudice,” they did not receive a “fair chance” to present their case, the “evidence and other facts were not important to the judge,” and the Subject Judge failed to follow procedures and displayed favoritism. Complainants also state that “the court wants this case to disappear for reasons we can’t explain; maybe because of Pro se.”

### **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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as merits-related.”

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainants’ allegations concern the substance of the Subject Judge’s official actions, rulings, findings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainants’ remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an illicit or improper motive, 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