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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-24-90212

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**ORDER**

An individual has 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 establishes that Complainant filed an amended employment-discrimination complaint against one defendant and a motion to proceed *in forma pauperis*. A magistrate judge entered an order granting the *in forma pauperis* motion and directing Complainant to file a second amended complaint. Complainant then filed a second amended complaint, and the magistrate judge issued a report recommending that it be dismissed due to Complainant's failure to comply with the instructions in the previous order. Complainant filed objections and a notice of appeal, and the Subject

Judge entered an order directing the clerk to administratively close the case pending the outcome of Complainant's appeal. The appeal remains pending.

### **Complaint**

Complainant alleges the Subject Judge "demonstrated constant, bias incompetence when judging this case," which caused him "to believe the judge is working with criminal motivation." He alleges the Subject Judge retaliated against him and conspired with one of the defendants to cover up a series of crimes. He contends the Subject Judge improperly dismissed evidence as conclusory, "confuses interpretations of the evidence," repeatedly ignored evidence, and "pick[ed] evidence to disprove claims." Complainant states there were "clear misunderstandings, lack of attentiveness, and ignorance throughout his judgment," that the Subject Judge "is looking for clear straightforward evidence without any higher level of thinking," that he "does not believe the judge is competent enough to judge this case and has shown judicial disability when considering the facts, logic, and rules of this case," and that the Subject Judge's actions lead him "to believe there is malicious intent or inability to handle the nature of this 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. Complainant’s claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge engaged in misconduct or suffered from a disability. Judicial-Conduct Rule 11(c)(1)(D). For this reason, this Complaint is **DISMISSED**.

To the extent Complainant intended to name the magistrate judge from the above-described case as the subject judge, I decline to identify a complaint against the magistrate judge under Judicial-Conduct Rule 5(a) because the claims concern the substance of the magistrate judge’s decisions or procedural rulings or are otherwise based on allegations lacking sufficient evidence to raise an inference that the magistrate judge engaged in misconduct or suffered from a disability.

/s/ William H. Pryor Jr.  
Chief Judge