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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-24-90249 through 11-24-90251

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**ORDER**

An individual has filed a Complaint against two United States district judges and one 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 establishes that Complainant filed a civil complaint against a company. The First Subject District Judge later dismissed the action without prejudice due to Complainant's failure to timely serve the defendant. Complainant filed additional motions, which the First Subject District Judge denied.

The record also establishes that Complainant filed another civil complaint against two defendants and a motion to proceed *in forma pauperis*. The Subject Magistrate Judge denied the *in forma*

*pauperis* motion without prejudice and directed Complainant to file a more detailed motion. Complainant filed two motions to recuse the Subject Magistrate Judge. The Subject Magistrate Judge then issued an order directing Complainant to show cause as to why the case should not be dismissed for failure to comply with the previous order. After Complainant failed to respond, the Subject Magistrate Judge issued a report recommending that the case be dismissed, and the Second Subject District Judge entered an order adopting the report and recommendation and dismissed the case. Complainant filed a motion for reconsideration, which the Second Subject District Judge denied.

### **Complaint**

Complainant states that the First Subject District Judge and the Subject Magistrate Judge have “been under investigation” by this Court, should have recused themselves from his cases, denied his claims without hearing the facts and evidence, and failed to exercise due diligence. Complainant also states that the Second Subject District Judge “added [himself] to my complaint in this case.” He attached documents to 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, report, and orders in the above-described cases, 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 engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge