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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. 11-25-90027 and 11-25-90028

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**ORDER**

An individual has filed a Complaint against a United States district judge and a 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 *pro se* civil complaint against multiple defendants, alleging the defendants had illegally wiretapped his electronic devices. A magistrate judge who is not the Subject Magistrate Judge issued a report recommending that the complaint be dismissed as a shotgun pleading and for failure to state a plausible claim for relief. Over Complainant's objections, the Subject District Judge entered an order adopting the report and recommendations, dismissing the complaint without prejudice, and giving Complainant ten days to file an amended

complaint. Complainant did not file an amended complaint, and the Subject District Judge entered an order dismissing the case.

The record also establishes that Complainant filed another *pro se* civil complaint against multiple defendants in which he alleged he was being unlawfully surveilled, and the Subject Judges were assigned to the case. After various proceedings, one defendant filed an opposed motion for an extension of time to respond to the complaint, which the Subject Magistrate Judge granted the next day. Multiple defendants then filed motions to dismiss. The case remains pending.

### **Complaint**

Complainant states his Complaint “is based on egregious procedural irregularities, undue delays, apparent bias, and a pattern of behavior inconsistent with judicial impartiality and ethical standards.” Complainant alleges that in the first above-described case the Subject District Judge delayed issuing an order on the report and recommendation for 4 months and 15 days, and that the “excessive delay violated the principle of judicial efficiency, particularly since no justification or explanation was provided.” He states the Subject District Judge gave him only 7 days to file an amended complaint, the deadline was inconsistent with the Federal Rules of Civil Procedure and hindered his ability to adequately respond and amend his claims, and the decision “deviates from established norms and raises questions regarding whether the court acted with an improper motive or bias in restricting Pro Se Plaintiff’s ability to pursue his case.”

Complainant states that the Subject District Judge had a “clear conflict of interest” because she owned stock in a certain company that was not named as a defendant in either case. He states that her “failure to recuse herself undermines the fairness and impartiality expected from the judiciary in cases with potential conflicts of interest.” He contends the report and recommendation issued in the first case “contained significant errors and inconsistencies” and alleges the Subject District Judge “appeared to ‘rubber stamp’ the findings without critical review.”

Complainant states the Subject District Judge was assigned to his second case that involved overlapping claims and defendants, and given that he made allegations of misconduct and bias in the first case, “her reassignment creates an appearance of partiality.” He contends that her “continued involvement in cases involving similar issues and defendants raises a conflict of interest,” and that the Subject District Judge’s assignment to the case “clearly demonstrate an organized campaign to obstruct justice.” Complainant states he “has reason to believe that [the Subject District Judge] and individuals associated with her office may have accessed [his] online activity via remote surveillance, just like the Defendants” in his lawsuits. He states that the timing of the issuance of an order “immediately after [he] ceased checking his PACER daily—suggests awareness of [his] online activity ....” He also asserts that the Subject Magistrate Judge had remote access to his devices.

Complainant alleges that in the second-above described case the Subject Magistrate Judge aided and abetted, and showed bias in

favor of, one of the defendants by granting the defendant's opposed motion for extension of time before he had an opportunity to file a response, which was "an unusual and highly suspicious expediency that starkly contrasts with the delays and outright suppression of [Complainant's] filings." He states the "preferential treatment given" to a defendant's attorneys, "coupled with the manipulation of court filings, strongly suggests collusion between" an attorney, court employees, "and judicial officers to obstruct [his] access to justice." He alleges the Subject Judges should recuse, or be disqualified" from his case. Finally, he alleges a pleading he submitted was never filed, and he takes issue with the actions of other individuals.

### **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 Complainant’s allegations concern the substance of the Subject Judges’ official actions, findings, rulings, report and recommendations, 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 acted with an illicit or improper motive, were biased or otherwise not impartial, had a conflict of interest, colluded with others, 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