

APR 18 2015

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-25-90058 and 11-25-90059

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 establishes that Complainant filed a prisoner civil-rights action against one defendant, and the defendant later filed a motion for summary judgment. After various proceedings, the Subject Magistrate Judge issued a report recommending that the defendant's motion for summary judgment be granted. Over Complainant's objections, the Subject District Judge adopted the report and recommendation. This Court affirmed in part, reversed the district court's summary-judgment ruling as to one claim, and remanded for further proceedings.

After additional proceedings in the district court, Complainant filed a notice that the parties had settled, and the Subject District Judge dismissed the case. Afterward, Complainant filed a motion to withdraw the settlement agreement. The Subject Magistrate Judge issued a report recommending that Complainant's motion be denied. Over Complainant's objections, the Subject District Judge adopted the report and recommendation.

Complaint

Complainant alleges the Subject Magistrate Judge treated him unfairly, threatened him, acted without authority, and violated his due process rights and "right to civil actions." Complainant does not raise any specific allegations against the Subject District Judge. 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, reports and recommendations, 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 engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge