CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90202

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.

As an initial matter, after Complainant filed his Complaint, he filed a supplement. The filing of the supplement is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record establishes that Complainant filed a civil complaint under the Federal Tort Claims Act, and the case was assigned to the Subject Judge. The defendant moved to dismiss the complaint. A district judge who is not the Subject Judge entered an order dismissing the complaint on the ground that it violated a prefiling injunction entered in another action. This Court affirmed.

Complaint

Complainant alleges that the Subject Judge allowed another judge who was not assigned to the case to dismiss the case in violation of Canon 3 of the Code of Conduct for United States Judges. Complainant also alleges that his appeal was fraudulently dismissed and should have been remanded. He attached documents to his Complaint.

Supplement

In his supplemental filing, Complainant alleges the Subject Judge deprived him of his rights and takes issue with the actions of other individuals. He attached documents to his supplemental filing.

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 Judge's official actions 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). Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge violated the Code of Conduct for United States Judges 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