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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. 11-26-90005 and 11-26-90006

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**ORDER**

An individual has filed a Complaint against two United States magistrate judges 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 the Subject Judges have issued reports recommending the dismissal of multiple actions filed by Complainant. In another action, Complainant filed a notice removing the action from state court to federal court, and three days later, the Second Subject Judge issued an order and report recommending that the action be remanded to state court because it lacked subject-matter jurisdiction.

## Complaint

Complainant alleges the Second Subject Judge engaged in “prejudgment” when she issued a report and recommendation three days after he filed a notice of removal. He contends it was impossible to address the complex questions within three days and that the report’s failure to address substantive legal issues suggests the outcome was predetermined. Complainant alleges that, in another case, the Second Subject Judge improperly recommended that his claims against an agency be dismissed, and he states he was “objectively vindicated” when the agency issued him a refund check. He asserts that the “objective vindication of the prior dismissal recommendation demonstrates a pattern of inadequate analysis rather than isolated error,” and that, “[w]hen combined with the 3-day R&R, it suggests systemic prejudgment against this particular litigant.” Complainant alleges that, in another case, the Second Subject Judge’s report and recommendation failed to address his main argument and instead “conflate[d] general subject matter jurisdiction with specific statutory authority,” which created “the appearance of prejudgment” and “gatekeeping.”

Next, Complainant alleges the First Subject Judge incorrectly referred to him as a “prisoner” when he had been released from custody, and he asserts the statement constituted “gross negligence or deliberate misrepresentation.” Complainant alleges that in all eight cases he filed, the Subject Judges issued reports and recommendations that were adverse to him. He contends that the “pattern is sufficiently improbable to justify inquiry into whether the outcomes reflect neutral adjudication or systemic factors

affecting this particular litigant’s cases.” He also states, “This pattern, combined with the conduct documented above, creates an appearance of bias that undermines public confidence in the judiciary—regardless of whether the underlying decisions were legally correct.”

### **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, orders, reports, and recommendations in Complainant’s 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, engaged in improper prejudgment, made deliberate misrepresentations, 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