

**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

111590067

**IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY**

ON PETITION FOR REVIEW*

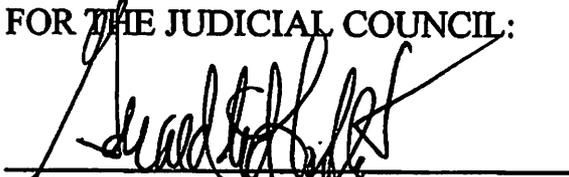
Before: TJOFLAT, HULL, MARCUS, WILSON, PRYOR, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

Upon consideration of the petitioner’s complaint by a review panel consisting of Judges Tjoflat, Wilson, Pryor, Steele, and Rodgers, the order of Chief Judge Ed Carnes filed on 10 August 2015, and of the petition for review filed by the complainant on 26 August 2015, with no non-disqualified judge on the Judicial Council Review Panel having requested that this matter be placed on the agenda of a meeting of the Judicial Council,

The Judicial Council Review Panel hereby determines that the disposition of this matter was proper and said disposition is hereby **AFFIRMED**.

The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:

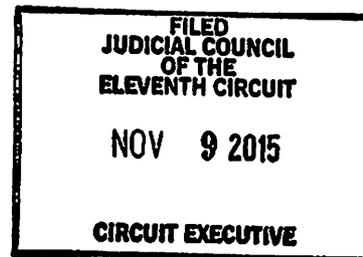


United States Circuit Judge

* Chief Circuit Judge Ed Carnes did not take part in the review of this petition.

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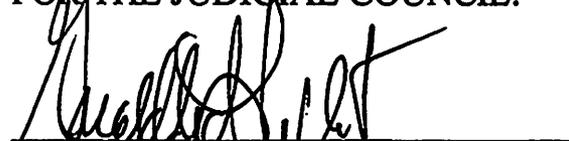
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The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

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CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

AUG 10 2015

DOUGLAS J. MINCHER
CLERK

Judicial Complaint Nos. 11-15-90067 and 11-15-90068

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. Magistrate Judge _____
and U.S. District Judge _____ of the U.S. District Court for the _____
District of _____, under the Judicial Conduct and Disability Act of 1980,
Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States
Magistrate Judge _____ and United States District Judge _____ (collectively,
“the Subject Judges”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules
for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of
the United States (“JCDR”).

Background

The record shows that in March 2011 Complainant and another individual filed in
the United States District Court for the _____ District of _____ a prisoner civil
rights action, raising claims relating to the conditions of their confinement and access to
the courts, particularly in regard to prison overcrowding. _____,
_____, and _____, were listed as defendants on the complaint form, but _____
name did not appear in the case caption on the complaint or on the docket. In May 2011
_____, _____, and _____ filed an answer and a “Special Report” in response
to the complaint, as required by a court order. In August 2011 the case was transferred to
the United States District Court for the _____ District of _____. Judge _____
then issued an order notifying the parties that the court would treat the Special Report as
a motion for summary judgment and that the plaintiffs would be given an opportunity to
respond, and Complainant did respond.

In February 2014 Judge _____ issued a report recommending that _____
and _____ motion for summary judgment be granted, finding that they were immune
from suit to the extent they were sued in their official capacities, and that the plaintiffs
had otherwise failed to show they were entitled to relief on their claims against those
defendants. The report also recommended that the complaint be dismissed as to
_____, finding that none of the claims concerned actions taken by him. After

considering and rejecting Complainant's objections, Judge _____ adopted Judge _____ report and recommendation, granted summary judgment to _____ and _____, and dismissed the case as to _____. This Court affirmed the district court's judgment on appeal.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judges "deliberately and with malice left a defendant _____ . . . pending in my lawsuit so they could" dismiss the case and prevent it from going to trial. Complainant asserts that the Subject Judges failed in their "summary judgment responsibilities." He suggests that "it can be possibly believed that agents of the named defendants have put pressure on" the Subject Judges to violate the law.

Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[a]n allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related." *Id.* The "Commentary on Rule 3" states in part:

Rule 3(h)(3)(A) 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 power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge's ruling. Any allegation that calls into question the correctness of an official action of a judge — without more — is merits-related.

To the extent Complainant's allegations concern the substance of the Subject Judges' official actions, findings, reports, and orders entered in the case, the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his claims that the Subject Judges acted with an illicit or improper motive, were pressured to violate the law, intentionally "left a defendant . . . pending," or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title

28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.

A handwritten signature in black ink, appearing to read "S. L. Kame", written over a horizontal line.

Chief Judge