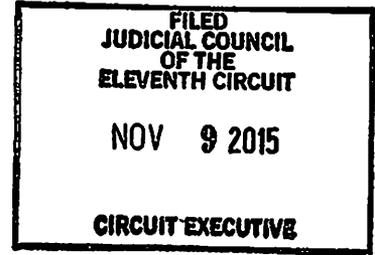


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

111590078



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

ON PETITION FOR REVIEW*

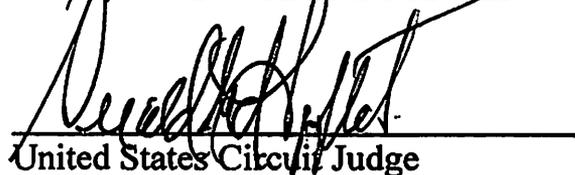
Before: TJOFLAT, MARCUS, WILSON, PRYOR, MARTIN, ROSENBAUM,
and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH,
BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District
Judges.

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 20 August 2015, and of the petition for review filed by the
complainant on 31 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**.

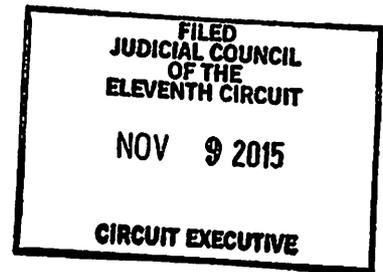
The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

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



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

111590079

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

ON PETITION FOR REVIEW*

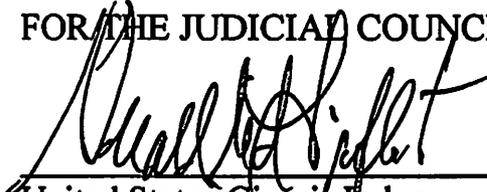
Before: TJOFLAT, MARCUS, WILSON, PRYOR, MARTIN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

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 20 August 2015, and of the petition for review filed by the complainant on 31 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, Circuit Judge Hull, and Circuit Judge Jordán did not take part in the review of this petition.

NOV 9 2015

CIRCUIT EXECUTIVE

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

111590080

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

ON PETITION FOR REVIEW*

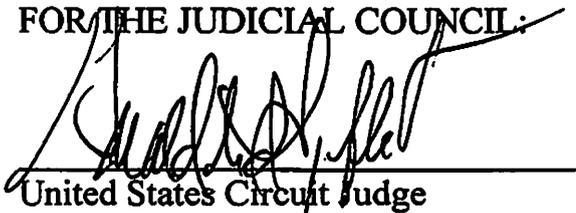
Before: TJOFLAT, MARCUS, WILSON, PRYOR, MARTIN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

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 20 August 2015, and of the petition for review filed by the complainant on 31 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, Circuit Judge Hull, and Circuit Judge Jordán did not take part in the review of this petition.

CONFIDENTIAL
BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

AUG 20 2015

DOUGLAS J. MINCHER
CLERK

Judicial Complaint Nos. 11-15-90078 through 11-15-90080

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. District Judge _____ of the U.S. District Court for the _____ District of _____, and U.S. Circuit Judges _____ and _____ of the U.S. Court of Appeals for the _____ Circuit, 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 District Judge _____, and United States Circuit Judges _____ and _____ (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 April 2012 Complainant filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence, challenging his federal convictions and raising claims of ineffective assistance of counsel. In June 2014 Judge _____ entered an order determining that an evidentiary hearing was necessary on Complainant’s claim that his trial counsel failed to file a notice of appeal despite being requested to do so. Following a hearing, a magistrate judge issued a report recommending that Complainant’s § 2255 motion be denied, generally finding that he did not show that he was entitled to relief on his claims.

In October 2014 Judge _____ adopted that report and recommendation, denied Complainant’s § 2255 motion, and noted that if he appealed, the court denied him a certificate of appealability (COA). In November 2014 Complainant filed a notice of appeal. After that, Complainant filed in the district court a “Motion to Dismiss Indictment for Government’s Outrageous Misconduct, or in the Alternative to Expand the COA” in which he argued, among other things, that government agents had engaged in fraud and theft in 2010. In February 2015 he filed a “Motion to Set Bond . . .” requesting that the court set bond during the pendency of the § 2255 proceedings. Judge _____ later denied those motions.

On March 18, 2015, Judge _____ denied Complainant’s motion for a COA, construed from his notice of appeal, holding that he had failed to make a substantial showing of the denial of a constitutional right. On March 27, 2015, Complainant filed a “Motion to Reconsider to Dismiss Indictment for Government’s Outrageous Misconduct or in the Alternative to Expand the COA” in which he argued that government agents had engaged in fraud and theft. On May 12, 2015, Judges _____ and _____ denied Complainant’s motion for reconsideration, determining that he had offered no new evidence or arguments of merit to warrant relief.

Meanwhile, on March 30, 2015, Complainant filed another notice of appeal in the district court. The record shows that, in that appeal, a petition for en banc consideration that Complainant submitted was returned to him unfiled in April 2015 because this Court had not issued an opinion. In June 2015 a “Motion for Reconsideration For En Banc” that Complainant submitted was returned to him unfiled because this Court had not issued an opinion. On June 10, 2015, a panel of this Court on which Judge _____ sat dismissed the appeal as duplicative of his earlier appeal.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant first alleges that the Subject Judges exhibited “Extreme Judicial Bias” by not allowing him to petition for rehearing en banc and “conspired to fraudulent[ly] conceal the unlawful takings in violation of Fed. Rule 60.” Complainant alleges that the “Appellate Court judges are depriving him of his due process and Constitutional rights,” and that there have been “undue delays in the processing of motions for reconsideration for rehearing en banc.” He complains that he has not received notification about the status of his appeals, and he states that the “Appellate Judiciary actions strongly implicate extreme judicial bias and prejudice by not allowing the complainant to fully appeal his case.” He also alleges that the “Appellate Judiciary has conspired” to deny him the right to be heard, and has aided and abetted the “fraudulent concealment of the fact that a crime took place.”

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.

In addition, Rule 3(h)(3)(B) 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 3” provides that “a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge — in other words, assigning a low priority to deciding the particular case.”

To the extent Complainant's allegations concern the substance of the Subject Judges' official actions, findings, and orders entered in Complainant's case and appeals, as well as his allegations of undue delay, 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 were biased or prejudiced against him, were part of a conspiracy, 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**.



Chief Judge