

JUN - 8 2016

CIRCUIT EXECUTIVE

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

**111690002**

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

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**ON PETITION FOR REVIEW\***

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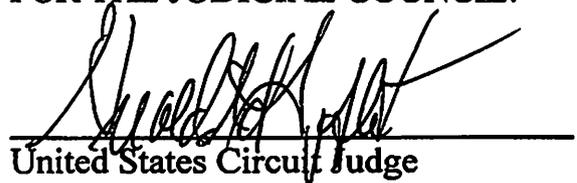
Before: TJOFLAT, HULL, MARCUS, WILSON, PRYOR, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, WATKINS, and WOOD, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Wilson, Pryor, Moore, and Land, the order of Chief Judge Ed Carnes filed on 6 April 2016, and of the petition for review filed by the complainant on 13 April 2016, 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:**

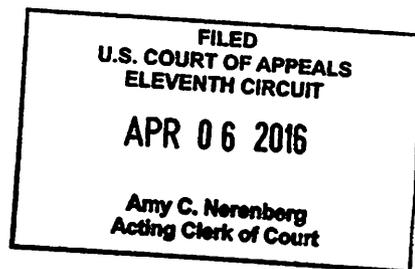


United States Circuit Judge

\* Chief Circuit Judge Ed Carnes and Chief District Judge M. Casey Rodgers did not take part in the review of this petition.

**CONFIDENTIAL**

**BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT**



**Judicial Complaint No. 11-16-90002**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

**IN RE: The Complaint of \_\_\_\_\_ against \_\_\_\_\_, U.S. District Judge for 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 District Judge \_\_\_\_\_ (the “Subject Judge”), 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”).

As an initial matter, after Complainant filed his Complaint, he filed two supplemental statements. The filing of those supplemental statements is approved. See 11th Cir. JCDR 6.7.

**Background**

The record shows that in April 2014 a federal grand jury indicted Complainant on charges of mail fraud, filing false claims, theft of government property, and aggravated identity theft. In July 2014 Complainant filed a pro se motion to dismiss the indictment in which he argued, among other things, that in 2011 the government caused him to be unlawfully held for six months at the \_\_\_\_\_ on a writ of habeas corpus ad testificandum in order to obtain information to use against him in the later criminal prosecution. The next month, a magistrate judge issued a report recommending that Complainant’s motion to dismiss the indictment be denied. With respect to Complainant’s argument concerning the unlawful confinement, the magistrate judge found that the time he spent in \_\_\_\_\_ was not related to the case, did not impact his right to a speedy trial, and was not a basis to dismiss the indictment.

Over Complainant’s objections, in September 2014 the Subject Judge adopted the magistrate judge’s report and recommendation and denied the motion to dismiss the indictment. In October 2014 Complainant again moved to dismiss the indictment based on alleged government misconduct in causing him to be illegally detained at the \_\_\_\_\_ in 2011, and the Subject Judge denied the motion. The case then proceeded to

trial, and in November 2014 the jury found Complainant guilty as charged. In January 2015 the Subject Judge sentenced him to a total term of 331 months of imprisonment.

In September 2015 Complainant filed in the district court a document labeled "Complaint" and "Motion to Invoke Power of the Court" (Motion to Invoke) in which he requested that the court use its contempt power to punish government officials who caused him to be unlawfully incarcerated at the \_\_\_\_\_ on a writ of habeas corpus ad testificandum. He also sought to have the court revisit its earlier ruling that the time spent in \_\_\_\_\_ was not related to his current case. The next month, he filed a "Supplemental Complaint" in which he alleged that his counsel and a government agent had conspired to conceal his arguments pertaining to the allegedly unlawful detention, and that the agent had falsified a warrant for Complainant's arrest.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant first alleges that the Subject Judge is a "racist" who acted "out of spite; annoyance; prejudice and contempt for Complainant . . . by willfully failing to use the court's contempt power to punish federal officials for intentionally disobeying" a writ of habeas corpus ad testificandum. Complainant then alleges that in 2011 federal officials kept him unlawfully confined at the \_\_\_\_\_ on a writ of habeas corpus ad testificandum "to punish, intimidate and collect phone call conversation" to use against him in later criminal proceedings. He states that after this was brought to the Subject Judge's attention, the Subject Judge "unlawfully denied" Complainant's motion to dismiss the indictment. Complainant asserts that the Subject Judge "is willfully refusing to perform his official Court duties" and acted in "a racially motivated way" by failing to take action to punish the federal officials. He also states that the Subject Judge exhibited "extreme prejudice and contempt" for Complainant and acted "with racial discrimination intentions" by refusing to acknowledge and rule on Complainant's Motion to Invoke.

Complainant alleges that a government agent falsified an arrest warrant, which resulted in Complainant being falsely arrested and wrongfully convicted. He asserts that the Subject Judge, acting "out of prejudice and contempt for Complainant," committed misprision of a felony in violation of 18 U.S.C. § 4 by refusing to initiate criminal proceedings against the agent for falsifying the warrant. He complains that the Subject Judge failed to acknowledge or rule upon his Motion to Invoke and Supplemental Complaint. Complainant also alleges that the Subject Judge: (1) acted with racial discrimination and "bigotry" in sentencing him to a term of 331 months of imprisonment; (2) is "concealing or covering up" Complainant's unlawful confinement; (3) is concealing that a government agent committed a felony; (4) was part of a "judicial conspiracy"; and (5) acted in the "Clear absence of jurisdiction." Complainant attached various documents to his Complaint.

## Supplements

In his first supplemental statement, Complainant reiterates his allegation that he was arrested on a falsified warrant, and he requests that his convictions and sentences be vacated. He also states that the Subject Judge and a government agent “committed criminal felonies against” him. He attached a couple of documents to that supplement. With his second supplement, Complainant submitted a document in which argues that a certain United States Supreme Court case supports his position that he should be released from custody.

## 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 Judge’s official actions, findings, rulings, and orders entered in the case, the allegations are directly related to the merits of the Subject Judge’s 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 Judge acted with racial bias, had a personal bias against Complainant, committed a crime, concealed or covered up crimes committed by others, was 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**.

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

Chief Judge