

Before the Judicial Council of the
Eleventh Judicial Circuit

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

MAY 22 2024

CIRCUIT EXECUTIVE

GENERAL ORDER 2024-J

IN THE MATTER OF JUDICIAL COMPLAINTS AGAINST
JUDGE AILEEN M. CANNON

IN RE: Order Instructing the Clerk of the United States Court of Appeals for the Eleventh Circuit Not to Accept Further Judicial Complaints Against United States District Judge Aileen M. Cannon, pursuant to Rule 10(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings

ORDER

Before May 16, 2024, multiple Complaints of Judicial Misconduct or Disability were filed against United States District Judge Aileen M. Cannon of the United States District Court for the Southern District of Florida raising allegations in connection with the classified-documents case involving former President Donald Trump, S.D. Fla., No. 9:23-cr-80101-AMC. Some of those complaints have been acted upon, and others will be acted upon in due course.

Since May 16, 2024, the Clerk of the United States Court of Appeals for the Eleventh Circuit has received over 1,000 judicial complaints against Judge Cannon that raise allegations that are substantially similar to the allegations raised in previous complaints. These complaints appear to be part of an orchestrated campaign, as described in Judicial-Conduct Rule 10(b) and the accompanying commentary. The Chief Circuit Judge of the Eleventh Circuit has considered and dismissed four of those orchestrated complaints as merits-related and as based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.

Many of the complaints against Judge Cannon request that the Chief Circuit Judge remove her from the classified-documents case and reassign the case to a

different judge. But neither the Chief Circuit Judge nor the Judicial Council has the authority to take this action under the Rules for Judicial-Conduct and Judicial-Disability Proceedings. See Judicial-Conduct Rule 11 (Chief Judge’s Review); Judicial-Conduct Rule 19 (Judicial-Council Disposition of Petition for Review); Judicial-Conduct Rule 20 (Judicial-Council Action Following Appointment of Special Committee).

Many of the complaints against Judge Cannon also question the correctness of her rulings or her delays in issuing rulings in the case. But Judicial-Conduct Rule 4(b)(1) provides 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.” And Judicial-Conduct Rule 4(b)(2) 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 4” states that “a complaint of delay in a single case is excluded as merits-related.” Although many of the complaints allege an improper motive in delaying the case, the allegations are speculative and unsupported by any evidence. The Complaints also do not establish that Judge Cannon was required to recuse herself from the case because she was appointed by then-President Trump. See *Straw v. United States*, 4 F.4th 1358, 1363 (Fed. Cir. 2021) (“There is no support whatsoever for the contention that a judge can be disqualified based simply on the identity of the President who appointed him.”).

Judicial-Conduct Rule 10(b) allows the Chief Circuit Judge to recommend to the Judicial Council that it order the Clerk not to accept further filings that are part of an orchestrated campaign:


Orchestrated Complaints. When many essentially identical complaints from different complainants are received and appear to be part of an orchestrated campaign, the chief judge may recommend that the judicial council issue a written order instructing the circuit clerk to accept only a certain number of such complaints for filing and to refuse to accept additional complaints. The circuit clerk must send a copy of any such order to anyone whose complaint was not accepted.

The Chief Circuit Judge has made that recommendation to the Judicial Council for the orchestrated complaints against Judge Cannon.

Because the orchestrated complaints received on and after May 16, 2024, raise allegations that have been or will be considered in previously filed complaints against Judge Cannon, accepting these complaints for filing and processing would not provide any benefit to the adjudication of the merits of the allegations against Judge Cannon. Therefore, the Judicial Council unanimously **ORDERS** the Clerk of the United States Court of Appeals for the Eleventh Circuit not to accept the judicial complaints against Judge Cannon received on and after May 16, 2024, under Rule 10(b) to the extent they are similar to previously filed complaints. This order does not apply to the four complaints received on and after May 16, 2024, that have already been filed and dismissed. Although the judicial-complaint process is not the appropriate way to seek review of Judge Cannon's orders, her orders are nevertheless subject to appellate review in the normal course.

Pursuant to Judicial-Conduct Rule 2(b), the Judicial Council finds that exceptional circumstances render the provision of Judicial-Conduct Rule 10(b)—requiring the Circuit Clerk to send a copy of this order to each complainant whose complaint was not accepted—manifestly unjust or contrary to the purposes of the rule. Instead of mailing this order to each complainant, the Judicial Council directs the Clerk of the Eleventh Circuit Court of Appeals to post this order on the Court's website.

FOR THE JUDICIAL COUNCIL:



Chief Judge