

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

**11-19-90069**



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

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**ON PETITION FOR REVIEW\***

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Before: TJOFLAT, MARCUS, WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, and NEWSOM, Circuit Judges; MOORE, MERRYDAY, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Marcus, Wilson, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 24 June 2019, and of the petition for review filed by the complainant on 2 August 2019, 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**.

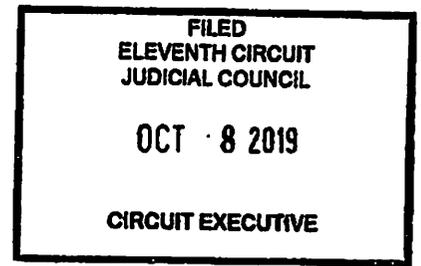
**FOR THE JUDICIAL COUNCIL:**

  
United States Circuit Judge

\* Chief Circuit Judge Ed Carnes, Circuit Judge William H. Pryor Jr., and Chief District Judge Thomas W. Thrash, Jr., did not take part in the review of this petition.

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

**11-19-90070**



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

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**ON PETITION FOR REVIEW\***

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Before: TJOFLAT, MARCUS, WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, and NEWSOM, Circuit Judges; MOORE, MERRYDAY, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Marcus, Wilson, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 24 June 2019, and of the petition for review filed by the complainant on 2 August 2019, 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**.

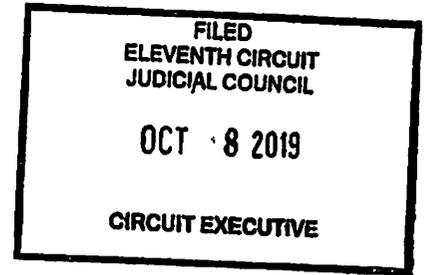
**FOR THE JUDICIAL COUNCIL:**

  
United States Circuit Judge

\* Chief Circuit Judge Ed Carnes, Circuit Judge William H. Pryor Jr., and Chief District Judge Thomas W. Thrash, Jr., did not take part in the review of this petition.

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

**11-19-90071**



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

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**ON PETITION FOR REVIEW\***

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Before: TJOFLAT, MARCUS, WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, and NEWSOM, Circuit Judges; MOORE, MERRYDAY, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Marcus, Wilson, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 24 June 2019, and of the petition for review filed by the complainant on 2 August 2019, 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 William H. Pryor Jr., and Chief District Judge Thomas W. Thrash, Jr., did not take part in the review of this petition.

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

JUN 24 2019

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint Nos. 11-19-90069 through 11-19-90071**

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

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IN RE: The Complaint of \_\_\_\_\_ against United States Magistrate Judge \_\_\_\_\_ of the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_, United States District Judge \_\_\_\_\_ of the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_, and United States Circuit Judge \_\_\_\_\_ of the United States 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.

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**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States Magistrate Judge \_\_\_\_\_, United States District Judge \_\_\_\_\_, and United States Circuit 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”).

As an initial matter, after Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statement is permitted. See 11th Cir. JCDR 6.7.

**Background**

The record shows that in January 2018 Complainant, a citizen of \_\_\_\_\_, filed in the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_ a lawsuit on behalf of himself and his son against his former wife, \_\_\_\_\_ (\_\_\_\_\_), and others. Complainant generally alleged the defendants conspired together and committed fraud in connection with his and \_\_\_\_\_ divorce proceedings. In March 2018 Judge \_\_\_\_\_ entered an order dismissing the case, finding the federal claims failed because the defendants were not state actors subject to suit under 42 U.S.C. § 1983 and the court lacked subject matter jurisdiction as to any state law claims due to the domestic relations exception to diversity jurisdiction.

The next month, Complainant filed a motion to amend the judgment, contending in part that Judge \_\_\_\_\_ failed to address the other bases for the court’s jurisdiction.

Judge \_\_\_\_\_ issued an order denying the motion, finding: (1) Complainant failed to allege facts showing a plausible claim for relief under 42 U.S.C. §§ 1983, 1985, or 1986; (2) those statutes did not extend federal jurisdiction to private conspiracies to violate Complainant's parental or child custody rights; and (3) Complainant lacked standing to assert a private right of action for violations of United States immigration laws. Complainant then filed a motion for relief from judgment, which Judge \_\_\_\_\_ later denied for the reasons stated in the court's earlier order. Complainant appealed.

On appeal, Complainant filed, among other things, an "Emergency Motion for Remand and Censure of District Judge – \_\_\_\_\_" and an "Emergency Motion for Claiming My Fundamental Right of Access to My Son and His Access to Me." Two panels of this Court that did not include Judge \_\_\_\_\_ denied those motions. In October 2018 Complainant filed a "Motion Seeking Clarification" in which he requested that this Court provide the reasons why his motions were denied, and in December 2018 a panel that included Judge \_\_\_\_\_ denied the motion.

Also in December 2018 a panel that included Judge \_\_\_\_\_ issued an opinion affirming the dismissal of Complainant's complaint. The panel held that: (1) the federal claims were properly dismissed because the defendants were not state actors; (2) the remaining claims were properly dismissed based on the domestic relations exception to diversity jurisdiction; and (3) the district court did not violate Complainant's due process rights by issuing a short order dismissing the complaint. Complainant filed a petition for rehearing *en banc*, which this Court denied. After that, Complainant filed in the district court a second motion for relief, which Judge \_\_\_\_\_ denied.

The record shows that \_\_\_\_\_ filed in state court a lawsuit against Complainant in connection with domestic relations proceedings, and in April 2018 Complainant removed the case to the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_ and filed an emergency motion to stay a state court's contempt order. In May 2018 Judge \_\_\_\_\_ issued an order dismissing the case as frivolous, remanding the case to the state court, and denying as moot the emergency motion to stay. Judge \_\_\_\_\_ found that: (1) the court lacked jurisdiction due to the domestic relations exception to diversity jurisdiction; (2) federal question jurisdiction did not exist; (3) Complainant could not remove the action under 28 U.S.C. § 1443(1); and (4) his attempt to remove the action was untimely.

Complainant then filed a motion to stay remand and a motion to amend the judgment, and Judge \_\_\_\_\_ denied those motions. After that, Complainant filed a notice of appeal and multiple motions seeking various types of relief, including a motion in which he contended that Judge \_\_\_\_\_ possibly suffered from a mental disability. Judge \_\_\_\_\_ later denied the motions, finding the notice of appeal divested the court of jurisdiction to otherwise rule on them. After various proceedings in Complainant's appeal, in April 2019 a panel of this Court that included Judge \_\_\_\_\_ affirmed the

district court's order remanding the action to state court for lack of jurisdiction. Complainant then filed a "Motion to Vacate and to Arrest Manifest Injustice," which a two-judge panel that did not include \_\_\_\_\_ denied in June 2019.

The record shows that in September 2018 Complainant filed in the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_ a 28 U.S.C. § 2241 petition for writ of habeas corpus. That same month, Complainant filed multiple motions seeking various types of relief, including a motion for summary judgment, and he amended the § 2241 petition. In October 2018 the respondents filed responses to the § 2241 petition, the motion for summary judgment, and the amendments to the petition. After various additional filings, in February 2019 Complainant filed a motion to recuse Judge \_\_\_\_\_.

In March 2019 Judge \_\_\_\_\_ issued an order and report in which he: (1) denied the motion to recuse, generally finding Complainant's allegations were insufficient to require recusal; (2) recommended that Complainant's applications for habeas relief be denied, finding Complainant was being lawfully detained as an alien pending a decision on whether he was to be removed from the United States; and (3) recommended that the remaining motions be denied as moot. Complainant filed objections to the order and report.

The record also shows that in March 2019 Complainant filed in this Court a petition for review of an order of the Board of Immigration Appeals dismissing his appeal of an Immigration Judge's order denying his motion to terminate proceedings. In April 2019 a panel of this Court that included Judge \_\_\_\_\_ granted the government's motion to dismiss the petition for review for lack of jurisdiction, determining the order being appealed was not a final order of removal. Complainant filed a motion for reconsideration, and a two-judge panel that did not include Judge \_\_\_\_\_ denied the motion in June 2019.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judges: (1) "have despicably infringed upon the sovereignty of [his] country \_\_\_\_\_ and the independence of judiciary of [his] country"; (2) obstructed justice and "indulged in criminal intimidation"; (3) subjected his minor son "to inhuman torture of family separation and living in a foreign land without access to his family and friends"; and (4) acted "in contravention of the US laws resulting in treason to the US."

Complainant alleges that Judge \_\_\_\_\_ ignored various matters, including: (1) "jurisdictional clauses . . . that granted him indubitable jurisdiction"; (2) "the alienage jurisdiction and federal question of immigration"; and (3) that a certain attorney was a state actor. He also alleges that Judge \_\_\_\_\_ "repeatedly favored" a certain

attorney, and “validate[d] . . . ludicrous affidavit documents” related to service of a divorce complaint. Complainant asserts that Judge \_\_\_\_\_ “denied justice to” him and his son, and that his inaction constituted cognizable misconduct. He also asserts that \_\_\_\_\_ “concocted” a fraudulent charge of failure to pay child support against him “in collaboration with” Judge \_\_\_\_\_ and state courts.

Complainant contends that Judge \_\_\_\_\_ “sat on” his habeas petition “for over 6 months without making any ruling” and “fudged facts in his ruling.” He also states that Judge \_\_\_\_\_ “sat on important motions for over 6 months about providing [Complainant] adequate legal and computing resources to make legal filings, urgent medical and dental attention and also [his] motion for summary judgment.” Complainant states that, in contrast, Judge \_\_\_\_\_ acted promptly in response to filings made by the government. He asserts that Judge \_\_\_\_\_ “ignored important dispositive questions for close to 6 months and ignored other important motions, but more than anything he also fudged facts in is [sic] prejudicial conduct.”

Complainant then alleges that Judge \_\_\_\_\_ “joined” Judges \_\_\_\_\_ and \_\_\_\_\_ “in their acts of omission and commission,” and “joined” others “in their criminal conspiracy and criminal intimidation towards” Complainant and his son. He states that certain officers engaged in threatening conduct toward him at his place of incarceration, and that he brought that conduct to the attention of the circuit court in a motion to reconsider. He asserts that Judge \_\_\_\_\_ “attempted to shield the threatening conduct . . . by attempting to sweep the matter underneath the carpet by simply denying [Complainant’s] motion without any supporting reasoning.” Complainant states that Judge \_\_\_\_\_ “cooked up this facts [sic] at the insinuation of [Judge \_\_\_\_\_] \_\_\_\_\_, who told him that he got his back should [Complainant] appeal the decision,” and that Judge \_\_\_\_\_ “was able to take that extra ordinary time to process [his] Habeas petition at again [sic] assurance of” Judge \_\_\_\_\_.

Complainant then states that Judge \_\_\_\_\_: (1) “blocked” his petition for review “without any statutory basis”; (2) ignored Complainant’s argument that procedural orders and orders that violate substantive rights are always reviewable; (3) ignored a conflict of interest in his immigration case; and (4) ignored other “important issues,” which “denied justice” to Complainant and his son and constituted misconduct. Complainant also asserts that Judge \_\_\_\_\_ “acted as a mafia gang leader” by sending immigration officers to threaten Complainant and ignoring \_\_\_\_\_ fraud in procuring an arrest warrant. In conclusion, Complainant alleges the Subject Judges ignored evidence of fraud, and he requests, among other things, that his appeals be reinstated. Complainant also takes issue with the actions of individuals other than the Subject Judges. He attached various documents to his Complaint.

## Supplement

In his supplemental statement, Complainant states that he incorporates the contents of a motion he filed in one of his cases alleging that Judge \_\_\_\_\_ suffered from a mental disability. Complainant also contends that an opinion of this Court used the terminology of the opposing party, and he states, “Does it not establish that the judges have extrajudicial access to the point of view of my opposing party?”

## Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, “Allegations Related to the Merits of a Decision or Procedural Ruling,” 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” states in part:

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.

In addition, 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” 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, *i.e.*, assigning a low priority to deciding the particular case.”

To the extent Complainant’s allegations concern the substance of the Subject Judges’ official actions, rulings, findings, orders, and opinions in Complainant’s cases and appeals, 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 Judge \_\_\_\_\_ suffered from a disability or that the Subject Judges acted with an illicit or improper motive, were biased against Complainant or in favor of opposing parties, committed crimes, were part of a conspiracy, or otherwise engaged in misconduct.

