

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 04 2021

CIRCUIT EXECUTIVE

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

11-21-90045

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

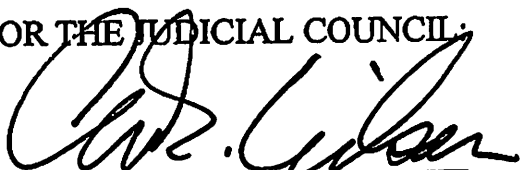
ON PETITION FOR REVIEW

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges;
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on May 17, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on June 25, 2021, and the petition for review filed by petitioner on July 20, 2021. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

The Judicial Council Review Panel hereby AFFIRMS the disposition of this matter by Chief Judge Pryor. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90045

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States District Judge
_____ of the United States 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”).

Background

The record shows that in November 2018 Complainant, through counsel, filed a lawsuit against a company, alleging in part that the defendant violated the Americans with Disabilities Act (ADA) by failing to provide him reasonable accommodations in connection with a professional certification examination. The next month, Complainant’s attorney filed a motion to withdraw, which the Subject Judge granted. In November 2019 Complainant filed a motion to recuse the Subject Judge in which he alleged she was biased against non-attorneys and that he was being forced to represent himself due to criminal activity committed by the defendant. After various proceedings, the defendant filed a motion for summary judgment.

In July 2020 the Subject Judge issued an order ruling on various motions that had been filed. The order, among other things: (1) denied Complainant’s motion to recuse, finding he provided no support for his allegation that the Subject Judge was biased against *pro se* litigants; and (2) denied a motion to appoint counsel he had filed, finding he did not establish he was entitled to the appointment of counsel. Complainant then filed a notice of appeal, and this Court later clerically dismissed the appeal pursuant to his motion for voluntary dismissal.

In April 2021 the Subject Judge issued an order granting in part and denying in part the defendant’s motion for summary judgment. The order denied the motion to the

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ELEVENTH CIRCUIT

JUN 25 2021

David J. Smith
Clerk

extent it related to the claim that the defendant violated the ADA by failing to provide certain requested accommodations, subject to the court's further consideration pursuant to Fed. R. Civ. P. 56(f). After that, Complainant filed a motion for reconsideration, to recuse the Subject Judge, and for other relief, asserting that the Subject Judge was a "legal bigot." The Subject Judge then entered an order recusing herself from the case and denying the motion to recuse as moot.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states the Subject Judge "confirmed she is a Legal Bigot" in her April 2021 order, and issued other "Legal Bigoted Orders" in the case. He states his case "is proof that Federal Courts must appoint attorneys to represent non-attorneys in civil cases" to protect them from "Legal Bigoted Justices" in the district and appellate courts. Finally, Complainant states the Subject Judge is a witness in the case, as she testified and conducted an investigation into where he lives. He provided a flash drive with his Complaint, which he states contains a recent filing in the case and audio recordings of a hearing before the Subject Judge and a mediation before a different judge.

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.

To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, findings, rulings, and orders in the above-described 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 that Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge acted with an illicit or improper motive, was biased against Complainant or non-attorneys, 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**.

/s/ William H. Pryor Jr.

Chief Judge