

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

11-21-90053

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

OCT 04 2021

CIRCUIT EXECUTIVE

**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 June 1, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on July 23, 2021, and the petition for review filed by petitioner on July 29, 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

JUL 23 2021

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90053

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 June 2020 Complainant filed a civil rights action against the _____ (_____) and an _____ investigator, _____, and she filed an amended complaint in August 2020. The next month, the defendants filed a motion to dismiss Complainant’s initial complaint. The Subject Judge later issued an order construing Complainant’s amended complaint as a motion for leave to amend, granting the motion, and terminating the motion to dismiss as moot.

After that, the defendants filed a motion to dismiss the amended complaint in which they stated that Complainant had brought two prior unsuccessful lawsuits against _____. The defendants noted that, in those previous cases, Complainant named “_____,” but they were not able to locate a _____ at the _____ and had confirmed there was a _____. In May 2021 the Subject Judge issued an order granting the defendants’ motion to dismiss, finding the court lacked subject-matter jurisdiction over the claims. In a footnote, the Subject Judge stated that Complainant had previously brought unsuccessful claims against _____ based on the same allegations in two earlier cases.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant appears to complain that the Subject Judge stated her prior cases were filed against _____ when she had filed them against _____. She alleges the Subject Judge engaged in improper *ex parte* communications with parties or counsel for one side in a case because he dismissed her case based on cases that did not involve _____. Complainant also alleges the Subject Judge: (1) falsified facts; (2) used his office to obtain special treatment for friends or relatives; (3) was biased against her; and (4) willfully and persistently failed to perform his duties by issuing a judgment in the case involving _____. She attached documents to her Complaint.

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 with which Complainant takes issue, she provides no credible facts or evidence in support of her claims that the Subject Judge engaged in improper *ex parte* communications, falsified facts, used his office to obtain special treatment for others, was biased against Complainant, 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