

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

11-21-90057

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 04 2021

CIRCUIT EXECUTIVE

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

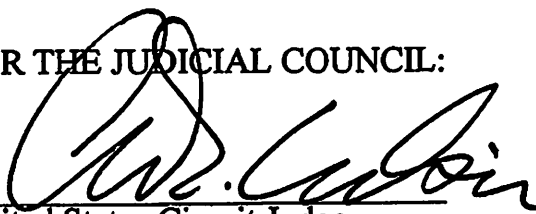
ON PETITION FOR REVIEW

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 15, 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. 11-21-90057

**FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT**

JUN 25 2021

**David J. Smith
Clerk**

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 a district judge who is not the Subject Judge granted. After various proceedings, the defendant filed a motion for summary judgment.

In April 2021 the district 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 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 district judge, and for other relief, and the district judge entered an order recusing herself from the case and denying the motion to recuse as moot. The case was then reassigned to the Subject Judge.

In June 2021 the Subject Judge entered an order granting Complainant summary judgment on the remaining claim and enjoining and restraining the defendant from refusing to offer him reasonable accommodations to take the examination. Complainant then filed a motion for reconsideration, to recuse the Subject Judge, and for the appointment of counsel in which he generally took issue with the Subject Judge’s order.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states he is asking to have the “Legal Bigoted rulings” in his case corrected. He states that, for the reasons in his prior complaints and his attachments, attorneys need to be appointed for *pro se* litigants to protect them from “this institutional legal bigot in the court system.” He attached a document to his 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, and order 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 issued a “bigoted” ruling 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