

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

11-21-90113

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

MAR 04 2022

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW

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

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on October 1, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on December 9, 2021, and the petition for review filed by petitioner on January 19, 2022. 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. 11-21-90113

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 09 2021

David J. Smith
Clerk

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate 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 Magistrate 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 April 2021 Complainant filed a *pro se* civil rights complaint against multiple state court judges, a state supreme court, and other state officials and entities, generally alleging the defendants intentionally and maliciously retaliated against her for exercising her free speech rights. The next month, she filed an amended complaint. Also in May 2021, the Subject Judge entered an order finding Complainant’s original and first amended complaints failed to state a claim on which relief could be granted and providing her an opportunity to file a second amended complaint.

In June 2021 Complainant filed a Motion for Leave to File Under Seal, requesting that the court authorize her to file the motion and her second amended complaint and exhibits under seal. In the motion, Complainant argued the documents should be sealed because they contained confidential correspondence with certain defendants, some documents contained her private medical information, and she feared additional retaliation from the defendants based on her allegations.

In August 2021 the Subject Judge issued an order granting in part and denying in part the Motion for Leave to File Under Seal, generally finding Complainant did not demonstrate good cause to seal her entire motion and her second amended complaint and exhibits. The order directed that: (1) the motion remain sealed because it contained personal medical information; (2) the clerk file a redacted version of the motion that did

not include the medical information; and (3) Complainant file a second amended complaint that complied with the court's May 2021 order. In September 2021 Complainant filed a Notice of Voluntary Dismissal, and the Subject Judge then issued an order dismissing the case without prejudice.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant first states she developed "growing suspicions" that unethical behavior was occurring involving certain federal officials in the district, and that she sent settlement demand letters to the defendants before filing her lawsuit. She states she believes the defendants communicated with someone in the clerk's office to "keep an eye out" for her case. She then describes a conversation she had with the clerk's office upon her filing of the case pertaining to service on the defendants.

Complainant states she "sincerely believe[s]" the defendants in her lawsuit conspired with the Subject Judge and other "prominent individuals" in the district to intimidate her into dismissing her case before she "opened Pandora's box." She states she realized the Subject Judge was "willing to intentionally sabotage my case and violate several judicial canons in the process just to preclude me from bringing claims under the" Federal Tort Claims Act, which caused her to develop a "stress-induced anxiety rash" that left permanent scarring on her wrists.

Complainant further states the Subject Judge's August 2021 order caused her to lose faith that the proceedings would be fair and impartial, contending the Subject Judge: (1) knew the facts she needed to plead in her second amended complaint involved sexual harassment allegations against individuals closely associated with a government official; and (2) used language in the order that tried to "preemptively discredit" her. 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. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge was part of a conspiracy, acted with an illicit or improper motive, violated the Code of Conduct for United States Judges, was not fair or impartial, sought to discredit her, 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