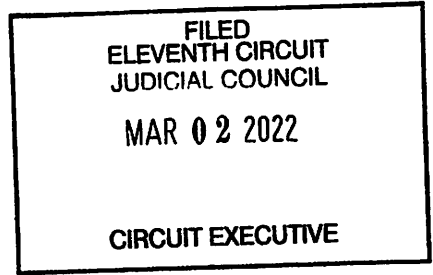


**FOR THE JUDICIAL COUNCIL  
OF THE ELEVENTH CIRCUIT**

**11-21-90114**



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

---

ON PETITION FOR REVIEW

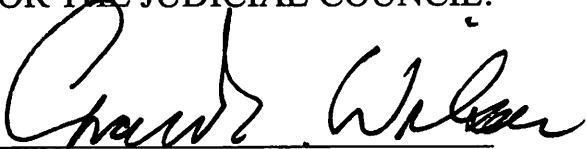
---

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 petitioners' complaint filed on October 12, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on December 10, 2021, and the petition for review filed by petitioners on January 18, 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. 11-21-90114

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

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

DEC 10 2021

David J. Smith  
Clerk

---

IN RE: The Complaint of \_\_\_\_\_ and \_\_\_\_\_ 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

\_\_\_\_\_ and \_\_\_\_\_ (collectively “Complainants”) have 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”).

As an initial matter, after Complainants filed their Complaint, they filed a  
supplemental statement. The filing of the supplemental statement is permitted. *See* 11th  
Cir. JCDR 6.7.

Background

The record shows that in September 2019 Complainants filed an amended *pro se*  
civil rights action against multiple defendants raising claims stemming from certain state  
court proceedings, and the defendants filed motions to dismiss the amended complaint.  
The next month, Complainants filed a motion for leave to file electronically, and a  
magistrate judge entered an order denying the motion, stating that *pro se* litigants were  
afforded sufficient access to the court through paper filing.

In January 2020 the magistrate judge issued a report recommending, among other  
things, that the motions to dismiss be granted and the amended complaint be dismissed  
without leave to amend. Over Complainants’ objections, in February 2020 the Subject  
Judge entered an order adopting the report and recommendation and directing the clerk to  
close the case. After that, Complainants filed multiple motions seeking various types of  
relief including additional motions requesting access to electronic filing, and the  
magistrate judge issued an order denying the motions, finding they failed to establish they  
were entitled to an exemption from the general rule that *pro se* litigants were not  
permitted to file electronically.

After additional proceedings, in April 2020 the Subject Judge issued an order directing Complainants to show cause as to why they should not be sanctioned for frivolous filings and harassment of court personnel, and in June 2020 Complainants filed a response. In April 2021 the Subject Judge issued an order that, among other things: (1) prohibited Complainants from filing anything in the division of the district court without it first being reviewed by a magistrate judge as a result of their vexatious litigation; (2) setting the order to show cause for a hearing; and (3) stating that a failure to appear at the hearing could result in the imposition of sanctions.

In late April 2021, the magistrate judge issued an order denying three motions Complainants had filed, and the next month, Complainants filed an “Appeal/Objection” to the magistrate judge’s order. The hearing on the show cause order was held in July 2021. On July 23, 2021, a notice of a hearing was issued, and a telephone conference was held on July 27, 2021.

### Complaint

In their Complaint of Judicial Misconduct or Disability, Complainants first state that on July 27, 2021, the Subject Judge instructed them not to contact court staff by any means prior to an order being issued in the show cause proceedings and informed them that any further contact would result in possible contempt proceedings. Complainants allege the Subject Judge made the statements: (1) because they “are a minority of Asian race/ethnicity of Indian origin with pro se status”; (2) “with an improper motive to silence [them] by the threat of contempt hearing thus obstructing court proceedings”; and (3) to retaliate against them for them filing a previous judicial misconduct complaint against the Subject Judge. They state they “feel harassed due to being a minority” and “feel extraneous and targeted due to their pro se status with ethnicity.”

Next, Complainants allege the Subject Judge treated them “with abusive and aggressive behavior,” determined they would never be allowed to electronically file in the court, and prevented them from obtaining a transcript of the telephone conference, which obstructed justice. They contend that, to a disinterested observer, it is clear that a three-month delay, when the Subject Judge “did many premature rulings,” shows he acted with an “improper motive to obstruct justice, emotionally badger by contempt, and” financially ruin one of the Complainants. They request the appointment of a special committee, and they attached documents to their complaint.

### Supplement

In their supplemental statement, Complainants state the Subject Judge: (1) did not indicate the evidentiary nature of the July 2021 hearing; (2) gave only four days of notice for the telephone conference on July 27, 2021; and (3) did not provide any reason for the telephone conference. Complainants state one of them felt harassed as a “minority pro se

doctor” and that it is “reasonable to infer of an improper motive in deliberation.” They attached documents to their supplement.

### 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 Complainants’ 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. Complainants’ remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge discriminated against or harassed them, retaliated against them for filing a judicial complaint, treated them in a demonstrably egregious and hostile manner, delayed the case with an improper motive, obstructed justice, 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