

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

11-22-90068

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

JAN 03 2023

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 May 12, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on June 16, 2022, and the petition for review filed by petitioner on June 24, 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

JUN 16 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90068

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, 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against
United States District Judge _____ (“the Subject Judge”), un-
der the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Conduct
and Judicial-Disability Proceedings of the Judicial Conference of
the United States (“Judicial-Conduct Rules”).

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

Background

The record shows that in February 2022 Complainant filed a civil action against multiple federal judges and a district court clerk of court. In April 2022 he filed a “Motion for Relief from Void Orders,” seeking relief from orders issued in six previous cases, and the Subject Judge denied the motion. Complainant then filed a motion for reconsideration and an affidavit seeking the Subject Judge’s disqualification under 28 U.S.C. § 144, alleging her order denying his previous motion showed “extreme bias and prejudice” and violated the United States Constitution.

In May 2022, the Subject Judge issued an order denying Complainant’s motion for reconsideration. After that, the defendants filed a motion to dismiss, and in June 2022 the Subject Judge entered an order granting the motion to dismiss and dismissing the complaint with prejudice, finding the defendant judges were entitled to absolute judicial immunity and the defendant clerk was entitled to quasi-judicial immunity. Complainant filed a motion to stay the proceedings, and the next day, the Subject Judge denied the motion as moot because the case was closed.

Complaint

Complainant states the Subject Judge “knowingly with intent violated” 28 U.S.C. § 144 and engaged in misconduct by failing

to recuse herself from the case. He attached documents to his Complaint.

Supplement

In his supplemental statement, Complainant states that on June 14, 2022, he filed his motion to stay the proceedings and that the Subject Judge “had ready to file” the order dismissing the case, which was dated June 13, 2022, but filed on June 14, 2022. He states, “This is beyond troubling.”

Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

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 decision not to recuse, the allegations are directly related to the merits of the Subject Judge's decision. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an improper motive or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," under Judicial-Conduct Rule 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," under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge