

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

11-22-90076

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

SEP 15 2022

CIRCUIT EXECUTIVE

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

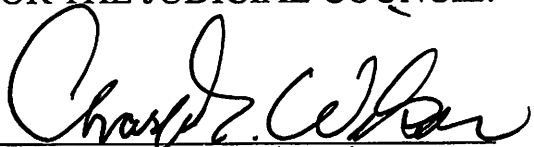
ON PETITION FOR REVIEW

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 23, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on June 27, 2022, and the petition for review filed by petitioner on July 8, 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 27 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90076

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 2018 Complainant filed a “Miscellaneous Action” in which he alleged he had been banned from a medical facility as a penalty for a disorderly conduct charge in violation of his due process rights, and the matter was docketed as a miscellaneous case. The Subject Judge then entered an order noting it appeared the case was erroneously assigned a miscellaneous case number and directing the clerk to assign the case a civil number.

After the case was assigned a new number, the Subject Judge entered an order directing Complainant to pay the filing fee or file a motion to proceed *in forma pauperis* (IFP). In March 2018 the Subject Judge dismissed the case without prejudice due to Complainant’s failure to pay the fee or file an IFP motion. After additional proceedings, in April 2022 Complainant filed a “Records Check Request” in which he sought to determine whether the Subject Judge had “[s]ustained any criminal charge” against him. The Subject Judge entered an order striking the filing because the case was closed and directing the clerk to return any future filings Complainant attempted to submit in the case.

The record also shows that in March 2018 Complainant filed a lawsuit against multiple defendants raising discrimination claims.

A couple of months later, he filed an amended complaint in which he stated that he was charged with disorderly conduct and banned from entering a medical facility, that a search of court records showed that he was never charged and the ban was illegal, and that the purpose of the illegal ban was to prevent him from obtaining employment. The defendants filed a motion to dismiss the amended complaint. After various proceedings, in August 2018 the Subject Judge issued an order granting the defendants' motion to dismiss because Complainant failed to establish he was entitled to relief on his claims.

In May 2019 Complainant filed a motion to reopen the case, contending he had newly discovered evidence establishing that the Subject Judge concealed court documents showing he was never charged with a crime. The Subject Judge denied the motion to reopen, finding the documents were not newly discovered and that, in any event, they would not have changed the disposition of the case. Complainant then filed additional motions to reopen and other motions, which the Subject Judge denied.

In June 2019 Complainant filed a fifth motion to reopen, arguing that counsel for the defendants committed fraud by arguing the amended complaint failed to state a claim. The Subject Judge entered an order denying the motion because Complainant failed to set forth an appropriate reason why the case should be reopened, and the order also directed the clerk to revoke Complainant's permission to file documents electronically due to his abuse of the system and disregard of court orders. In July 2021 Complainant filed

another motion to reopen, and the Subject Judge ordered the motion stricken and directed the clerk not to accept any additional filings in the case.

Complaint

Complainant states that he provided a document showing that he had not been criminally charged, but that the Subject Judge nevertheless “substantiated the ban.” He states it appears the Subject Judge’s “cognitive abilities are seriously impaired because . . . she sustained a non-existent criminal charge and penalty of a ban . . . despite the irrefutable evidence” showing he was “never arrested, charged, fined or imprisoned” such that the ban was illegal. He attached documents to his complaint.

Supplement

In his supplemental statement, Complainant requests that his judicial complaint be consolidated with another judicial complaint he filed against the Subject Judge.¹

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:

¹ Complainant’s motion to consolidate is DENIED.

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 cases, 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 suffered from a disability 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