

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

**11-22-90093**

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

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ON PETITION FOR REVIEW


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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 July 11, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on August 11, 2022, and the petition for review filed by petitioner on August 26, 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

AUG 11 2022

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90093

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**ORDER**

An individual has filed a Complaint against a United States magistrate judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

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 January 2021 Complainant filed a petition for writ of habeas corpus, 28 U.S.C. § 2254, alleging in part that his confinement had been unlawfully extended based on inaccurate information. He also filed a motion for leave to proceed *in forma pauperis*, which the Subject Judge granted. In May 2021 the

respondent filed a response to the § 2254 petition and attached documents summarizing Complainant's convictions, a "Transcript of Record" that included a handwritten notation "New MRD 9/2/29," and an affidavit stating that, according to the transcripts, Complainant's release date of September 2, 2029, was correct.

Complainant then filed, among other things, a motion to strike the affidavit and transcript attached to the response, contending the transcript had been illegally altered to reflect that his release date was in September 2029 and that the affidavit contained perjury. In October 2021 the Subject Judge entered an order denying the motion to strike because it was "replete with conclusory allegations." In April 2022 the Subject Judge issued a report recommending that Complainant's habeas petition be denied because his claims were procedurally defaulted and were not matters cognizable under federal habeas corpus law and denying as moot other motions he had filed. Over Complainant's objections, the district judge adopted the report and recommendation, dismissed the case without prejudice, and denied all remaining motions as moot.

### **Complaint**

Complainant asserts that the respondent's response to his habeas petition included a forged transcript, which made it appear that his sentence ended in 2029, and he states the Subject Judge had a copy of the original transcript that showed the document had been altered. Complainant alleges the Subject Judge showed partiality and bias when she "refused to exercise due diligence to ascertain whether the sentencing transcript had been authenticated,"

abused her authority by aiding the respondent in avoiding responsibility and protecting unlawful action, interfered with the administration of justice, engaged in “willful malfeasance in office,” neglected her duties by relieving the respondent of its obligation to respond to his motion to strike, acted without authority in denying the motion to strike, neglected or acted against her oath of office, “promoted the Affidavit done in perjury,” violated his rights, “shielded scandalous filings,” and concealed, altered, and misrepresented facts to harm him.

Next, Complainant states the Subject Judge was deliberately indifferent to individuals forcing him to sign “falsified fingerprint cards,” and that she “corruptly influenced” the district judge to determine the matter was unrelated to his habeas proceedings. He states the Subject Judge’s actions create the appearance of her acting in conspiracy with the respondent to interfere with his constitutional rights and obstruct justice. He takes issue with the Subject Judge’s report and recommendation, alleging, among other things, that it misrepresented facts, “fed deceit” to the district judge, promoted lies concerning the money in his inmate account, and contained other lies and false statements.

### **Supplement**

In Complainant’s supplemental statement, he corrects two typographical errors in his Complaint.

## 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 official actions, rulings, findings, orders, and report and recommendations 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 acted with an illicit or improper motive, was not impartial, made false statements, was part of a conspiracy, 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