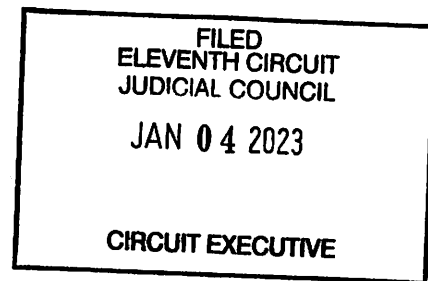


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-22-90094



**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 July 25, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on August 12, 2022, and the petition for review filed by petitioner on August 29, 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. 12 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90094

ORDER

An individual has filed a Complaint against a United States district 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.

Background

The record shows that in November 2013 a federal grand jury issued an indictment charging Complainant with multiple crimes. In May 2014 a second superseding indictment was issued charging Complainant, along with two codefendants, with one count of conspiracy to commit bank fraud, seven counts of bank fraud, one count of filing a false federal income tax return, one count of conspiracy to commit bankruptcy fraud, ten counts of bankruptcy fraud, ten counts of money laundering, one count of

making false statements, one count of obstruction of justice, one count of making a false statement under oath in a bankruptcy proceeding, and one count of conspiracy to conceal a person from arrest. The indictment listed certain financial institutions involved in the alleged offenses.

The case proceeded to trial, and in August 2014 the jury found Complainant guilty as charged in the second superseding indictment. The Subject Judge later sentenced Complainant to a total term of 327 months of imprisonment, and Complainant appealed. In September 2019 this Court issued an opinion affirming in part, reversing in part, and remanding for resentencing. This Court reversed Complainant's convictions for bankruptcy fraud, conspiracy to commit bankruptcy fraud, money laundering, and conspiracy to harbor a fugitive. At the resentencing hearing in August 2021, the Subject Judge sentenced Complainant to a total term of 216 months of imprisonment. Complainant appealed.

Complainant then filed in the district court multiple motions seeking various types of relief. In May 2022 he filed a "Motion/Petition to Request for 'Compassionate Release' Pursuant to First Step Act . . ." and a "Request for 'Reduction in Sentence' . . ." pursuant to 18 U.S.C. 3582(c)(1)(B). The motions were docketed as motions to vacate, set aside, or correct sentence, 28 U.S.C. § 2255, "pursuant to First Step Act," and the docket entries state the motions would be forwarded to the court for consideration. In July 2022 the Subject Judge issued an order ruling on multiple motions, and the order denied the motion for compassionate release and

motion for a sentence reduction, which the Subject Judge referred to as a motion “to vacate his sentence.” Complainant appealed the order.

Previous Judicial Complaint

In April 2022 Complainant filed a judicial complaint against the Subject Judge and another judge raising allegations stemming from the above-described case. That complaint was dismissed in May 2022 as merits-related, based on allegations lacking sufficient evidence, and otherwise not appropriate for consideration. Complainant filed a petition for review.

Complaint

Complainant alleges the Subject Judge failed to disclose his financial interests and failed to recuse himself despite that he had financial interests in the financial institutions that Complainant was convicted of defrauding, in violation of 28 U.S.C. § 455(b)(4) and his oath of office. He also contends the Subject Judge failed to disclose a financial interest and failed to recuse himself in connection with another lawsuit. Complainant states that upon his “belief and information,” the Subject Judge had a fiduciary relationship with his children that required him to recuse himself from the case. Complainant asserts he has first-hand knowledge relevant to his allegations.

Next, Complainant alleges the Subject Judge retaliated against him for filing the previous judicial complaint against the Subject Judge. Complainant states that since May 2022 his motions

were docketed as notices and no orders have issued, and he states that in April 2022 the Subject Judge ruled on a motion filed by another individual the same day it was filed, but that several of Complainant's motions filed months earlier had not been ruled upon. He states it appears the Subject Judge is retaliating against him, abusing his power, violating the law, obstructing justice, and committing fraud, and that the Subject Judge "hates" him because of his "color, ethnicity, [and] religion."

Complainant contends that the Subject Judge manipulated his filings by converting his motion for compassionate release and motion for a sentence reduction to motions to vacate under § 2255 without his knowledge. He states the Subject Judge "devised and orchestrated a malicious and evil scheme" by recharacterizing the motions to deprive him of his liberty interest and prevent him from accessing the court. Finally, Complainant states he fears for his and his family's lives because of the Subject Judge's conduct and that the Subject Judge helped his friends take large sums of money from Complainant.

Discussion

To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, rulings, findings, 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 failed to disclose or concealed his financial interests, had a

conflict of interest, violated his oath of office, retaliated against Complainant, abused his power, obstructed justice, engaged in fraud, manipulated filings, or otherwise engaged in misconduct. Among other things, Complainant provided no evidence showing that the Subject Judge had a financial interest in the institutions listed in the indictments during the pendency of the criminal case.

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.

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