

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

**11-22-90102**

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

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ON PETITION FOR REVIEW

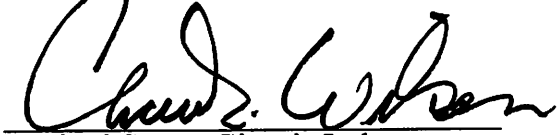
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Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges;  
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on August 17, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 15, 2022, and the petition for review filed by petitioner on September 23, 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

SEP 15 2022

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90102

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**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 June 2010 a federal grand jury issued a superseding indictment charging Complainant and three codefendants with multiple crimes. The indictment stated that a certain country was the “flag state” of a vessel and it charged Complainant with committing a crime by failing to conduct a complete survey of the vessel and knowingly making a false official statement that the vessel complied with a certain treaty. The case proceeded to trial where a jury found Complainant guilty of the two charges.

In December 2010, the Subject Judge sentenced Complainant to a total term of five years of probation. Complainant appealed, and in August 2012 this Court affirmed his convictions.

In April 2018, Complainant filed a Petition for a Writ of Error Coram Nobis raising various challenges to his convictions. In June 2018, the Subject Judge issued an order denying Complainant's petition, finding he offered no sound reasons for failing to seek relief earlier.

In November 2019, Complainant filed another Petition for a Writ of Error Coram Nobis in which he argued that the government fraudulently alleged that the vessel was operating under the authority of a certain country when it knew the vessel was operating under the authority of a different country. The Subject Judge denied the petition, finding Complainant had not advanced any additional grounds to grant the extraordinary relief sought.

In December 2019, Complainant filed another Petition for a Writ of Error Coram Nobis in the case. The Subject Judge entered an order denying the petition and warning Complainant that further abusive litigation could result in sanctions. Complainant appealed the denial of this third petition, and this Court later granted the government's motion for summary affirmance. We held that Complainant failed to present sound reasons for failing to seek relief earlier and failed to demonstrate any fundamental error that made his prosecution irregular and invalid.

In January 2021, in the original criminal case, Complainant filed a motion for leave to file a coram nobis petition, arguing that exculpatory evidence had been withheld that caused a “jurisdictional error” in the case. Later that month, the Subject Judge issued an order denying the motion for leave to file and directing Complainant to show cause why sanctions should not be imposed. In February 2021 the Subject Judge entered an order imposing sanctions on Complainant and directing the clerk not to accept further pleadings pertaining to his convictions unless signed by a member of the court’s bar.

### **Complaint**

Complainant alleges the Subject Judge “willfully suppressed at Jury Instruction” that a country different from the one alleged in the indictment was the actual flag state of the vessel, and he states that a “deletion certificate” was issued in 2010. He contends that he was not guilty of the charged crimes, he was a victim of obstruction of justice, a “Jurisdictional error” and prosecutorial misconduct occurred in his criminal case, the process was “irregular and invalid,” and his convictions should be “void for vagueness.” He also raises allegations against individuals other than the Subject Judge, and he attached documents to his Complaint, including a “Deletion Certificate.”

### **Previous Judicial Complaints**

Complainant has filed four previous Complaints of Judicial Misconduct or Disability against the Subject Judge pertaining to the

above-described cases. All of those complaints have been dismissed, and the complaint matters are closed. In the previous complaints, Complainant generally contended he was not guilty of the charged crimes and alleged, among other things, that the Subject Judge knowingly altered the vessel's flag country, committed a fundamental error that made his prosecution irregular and invalid, allowed the prosecutor to engage in misconduct, lacked jurisdiction in the case, and rendered a void judgment.

### **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.” Furthermore, when a complaint repeats allegations of a previously dismissed complaint, it is appropriate to dismiss those repeated allegations and address only allegations that have not previously been considered. *See* Judicial-Conduct Rule 11(c)(2).

The Complaint fails to present a basis for a finding of misconduct. Complainant’s charges that the Subject Judge suppressed information from the jury instructions and obstructed justice, as well as his claims relating to the deletion certificate, are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). Complainant’s remaining charges previously have been considered in connection with his earlier judicial complaints. Judicial-Conduct Rule 11(c)(1)(B). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge