

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

11-22-90118

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

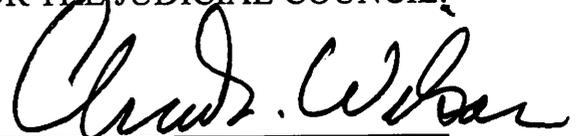
ON PETITION FOR REVIEW

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 August 24, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 1, 2022, and the petition for review filed by petitioner on September 12, 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:



Claudia Wilson
United States Circuit Judge

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

11-22-90119

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

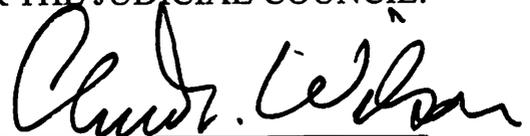
ON PETITION FOR REVIEW

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 August 24, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 1, 2022, and the petition for review filed by petitioner on September 12, 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:



Andrew Wilson
United States Circuit Judge

SEP 01 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90118 and 11-22-90119

ORDER

An individual has filed a Complaint against a United States magistrate judge and 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 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 District Judge entered an order directing the clerk to assign the case a civil number.

The Subject District Judge then 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 District 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 District Judge had "[s]ustained any criminal charge" against him. The Subject District Judge entered an order striking the filing because the case was closed.

The record shows that in March 2018 Complainant filed a lawsuit against multiple defendants raising discrimination claims. He later filed an amended complaint in which he stated he was charged with disorderly conduct and banned from entering a medical facility and a search of court records showed that he was never charged and the ban was illegal. The defendants filed a motion to dismiss the amended complaint. After various proceedings, in August 2018 the Subject District Judge issued an order granting the defendants' motion to dismiss, generally finding 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 District 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 District 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 District 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 District Judge ordered the motion stricken and directed the clerk not to accept any additional filings in the case.

The record also shows that in March 2022 Complainant was issued a violation notice for trespassing, and the matter was docketed under a magistrate judge case number. The next month, Complainant filed a motion to dismiss the violation notice, and the Subject Magistrate Judge granted the motion to the extent the violation notice was dismissed with prejudice and was denied in all other respects. After additional proceedings, on July 1, 2022, Complainant filed a motion for the court to take judicial notice that, among other things, the Subject District Judge had fraudulently sustained the ban in another case. The motion remains pending.

Complaint

Complainant alleges that the Subject Magistrate Judge is deliberately delaying ruling on his motion for judicial notice and is covering up for the Subject Judge District Judge because he knows the evidence in the Subject District Judge's case "clears

[Complainant's] name.” Complainant then asserts that the Subject District Judge committed fraud on the court by “sustaining a non-existent criminal charge and penalty of a ban” in one of the above-described cases.

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 Judges’ official actions, rulings, findings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings. Complainant’s remaining claims are based on allegations

lacking sufficient evidence to raise an inference that the Subject Judges deliberately delayed ruling, committed fraud, 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