FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT

11-22-90130

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 September 9, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on October 14, 2022, and the petition for review filed by petitioner on November 1, 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

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90130

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 a former political office holder filed a motion seeking, among other things, the appointment of a special master and to enjoin the government from reviewing certain seized materials. Later that month, the government filed a response in opposition to the motion. After a hearing, the Subject Judge issued an order granting the plaintiff's motion in part, authorizing the appointment of a special master to review the seized

materials, and temporarily enjoining the government from reviewing and using the seized materials for certain purposes.

The government filed a notice of appeal and a motion for a partial stay pending appeal, and the Subject Judge entered orders denying the motion for a partial stay and appointing the special master. The government also filed in this Court a motion for a partial stay pending appeal, and this Court later granted the motion.

Afterward, the special master issued an Amended Case Management Plan directing the parties to take various actions by certain deadlines, and the plaintiff filed objections to the amended plan. The Subject Judge then issued an order accepting in part and rejecting in part the amended plan, finding the order appointing the special master did not contemplate certain aspects of the plan, and extending certain deadlines.

Complaint

Complainant contends the Subject Judge should have recused herself from the above-described case, stating she was appointed by the plaintiff and that "many legal scholars believe" she has been "compromised" by the plaintiff. Next, Complainant alleges the Subject Judge obstructed justice by ruling that the government must stop its review of seized materials. Complainant states the Subject Judge made a mockery of the justice system and is a threat to democracy.

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.

The Complaint fails to present a basis for a finding of misconduct. 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, including her failure to recuse, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge was "compromised" by the plaintiff, obstructed justice,

or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge