

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

11-22-90131

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

MAY 05 2023

CIRCUIT EXECUTIVE

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

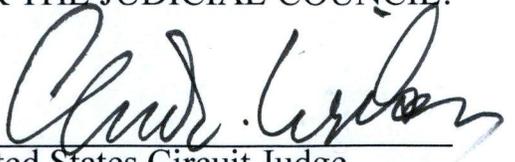
ON PETITION FOR REVIEW

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 21, 2022, and the petition for review filed by petitioner on November 25, 2022. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

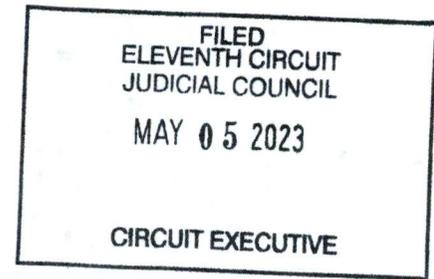
The Judicial Council Review Panel hereby AFFIRMS the disposition of this matter by Chief Judge Pryor. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

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

11-22-90132



**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 21, 2022, and the petition for review filed by petitioner on November 25, 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

OCT 21 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90131 and 11-22-90132

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 November 2020, Complainant filed a *pro se* employment discrimination complaint against three defendants and a motion for leave to proceed *in forma pauperis*. The next month, the Subject Magistrate Judge entered an order denying the *in forma pauperis* motion without prejudice due to Complainant's failure to provide complete and consistent answers, and the order directed him to file a new motion within 21 days. Complainant then paid the filing fee.

The Subject Magistrate Judge issued an order that informed Complainant that he was responsible for serving the defendants. The Subject Magistrate Judge later issued an order directing Complainant to explain the reason for the delay in service of process and why the case should not be dismissed, and Complainant filed a response in which he described his efforts to effect service. The Subject Magistrate Judge then issued a report recommending that the case be dismissed without prejudice because Complainant had not shown good cause for failing to timely effect service. Over Complainant's objections, the Subject District Judge adopted the report and recommendation and dismissed the complaint without prejudice based on the failure to timely effect service.

The record also shows that in July 2021, Complainant filed a *pro se* employment discrimination complaint against four defendants and a motion for leave to proceed *in forma pauperis*. The Subject Magistrate Judge entered an order denying the *in forma pauperis* motion because it appeared Complainant had the financial resources to pay the filing fee, and Complainant then paid the fee.

Afterward, the defendants filed a motion to dismiss the complaint and a motion to stay discovery, and the Subject Magistrate Judge granted the motion to stay discovery pending a ruling on the motion to dismiss. The Subject District Judge granted the defendants' motion to dismiss because the court lacked subject-matter jurisdiction over certain claims and that the complaint was untimely.

Complaint

Complainant alleges the Subject Judges discriminated against him because he is a *pro se* litigant proceeding *in forma pauperis*, repeatedly denied him access to legal representation and access to court, used “biased reasoning,” failed to give his cases impartial consideration, ignored serious civil rights violations, and colluded to dismiss his cases. He states that the “Court has at times imposed artificial delays in granting the processing of this case, i.e., requiring resubmission of IFP applications and delaying receiving court filing fees because of the plaintiff requesting a trial by jury.” He asserts the Subject Judges’ “rulings have the apparent goal of ending a time-restrained fair judicial examination and prosecution of these yet-to-be unproven or disallowed in a biased-free federal court with jurors as this IFP Plaintiff requested in the case filing.”

Next, Complainant alleges that the Subject District Judge erred in “following proper trial procedures” and in his interpretation of federal law, and admitted that a defense attorney was “allowed to appear before the Court prior to his dismissal ruling,” which was “a privilege not allowed to the so-called IFP plaintiff.” Complainant then states, “This Court is well-known for its conservative religious bias by denying prosecution of ALL discrimination cases.” He also complains about the dismissal of his cases, the order granting the motion to stay discovery, the determination that one of his complaints was untimely, and the actions and arguments of the defendants.

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 Judges’ official actions, rulings, findings, reports, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judges’ 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 Judges discriminated against him, were biased or partial, colluded together or with

others, 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