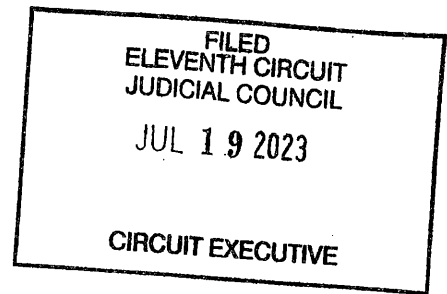


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-22-90133



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

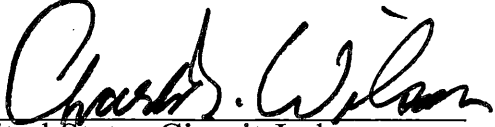
ON PETITION FOR REVIEW

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

OCT 24 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90133

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 2021, Complainant filed a civil rights complaint against a company and a state court magistrate judge. The defendants filed motions to dismiss the complaint. In April 2022, Complainant filed a motion to recuse the Subject Judge, arguing she had an interest in a certain fund that held stock in one of the defendants. In August 2022, the Subject Judge issued an order granting the defendants' motions to dismiss for failure to state a claim. The Subject Judge also denied the motion to

recuse because her investment did not qualify as a financial interest requiring recusal, denied as moot a motion to file electronically Complainant had filed, and granted a defendant's motion to strike a surreply Complainant had filed.

Complaint

Complainant contends that all of the Subject Judge's decisions in the case "lean to one side," which suggests a "serious motive hidden behind" the Subject Judge's actions, that his Complaint concerns "motives of extreme bias concealed," and that there was "impropriety and collusion" in the case. Complainant states the Subject Judge "work[ed] with" the defense, did not require the defendants to challenge all elements of his claims, did not view his claims in the light most favorable to him, never looked at certain exhibits he provided, supported a "bogus argument" a defendant improperly raised in a reply, took no action despite that a defendant's attorney sent him a threatening letter, allowed the defense to attack his character, and allowed defense counsel to place his private address on a certificate of service, which was "against the rules."

Complainant generally takes issue with the Subject Judge's order granting the defendants' motions to dismiss, granting a defendant's motion to strike his surreply, denying his request to receive electronic service, and denying his motion for recusal. He alleges that the order violated his constitutional rights and that the Subject Judge sought to conceal documents related to his motion to recuse. Finally, Complainant alleges the Subject Judge gave

special treatment and showed favoritism to the defendants, engaged in improper *ex parte* communications, and engaged in intentional discrimination, and that her acts were related to conduct outside the performance of official duties.

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, 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 acted with an illicit or improper motive, was biased or showed favoritism to the defendants, colluded with others, engaged in improper *ex parte* communications, discriminated against Complainant, 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