

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL
JUL 19 2023
CIRCUIT EXECUTIVE

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

11-22-90141

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

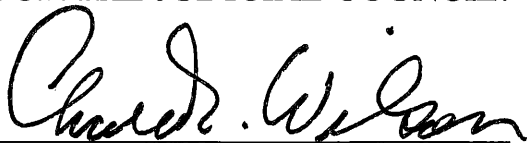
ON PETITION FOR REVIEW

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 October 20, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on November 14, 2022, and the petition for review filed by petitioner on November 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

NOV 14 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90141

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 February 2021 the Subject Judge entered an order in a case Complainant had filed directing the clerk not to accept complaints from Complainant for filing without the express written consent of the Subject Judge or a certain magistrate judge due to his serial frivolous filings. In August 2021 Complainant tendered a complaint seeking to bring claims under the Federal Tort Claims Act. The Subject Judge declined to allow the complaint to be filed as a civil case. Complainant then filed a notice of

appeal and a motion for leave to proceed *in forma pauperis* on appeal, and the Subject Judge entered an order denying the *in forma pauperis* motion because the appeal was frivolous. This Court later dismissed the appeal.

Complaint

Complainant alleges the Subject Judge abdicated his duties, abused “filing procedures,” and violated Complainant’s constitutional rights by declining to allow him to file his complaint. He contends that the Subject Judge “inadvertently misunderstood” his filings, erred in denying his motion to proceed *in forma pauperis*, and routinely denied him access to the courts.

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

/s/ William H. Pryor Jr.
Chief Judge