

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL  
JUL 19 2023  
CIRCUIT EXECUTIVE

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

**11-22-90180**

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

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ON PETITION FOR REVIEW

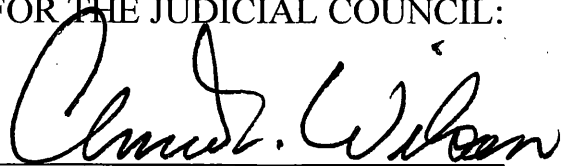
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Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges;  
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on December 30, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on January 17, 2023, and the petition for review filed by petitioner on January 26, 2023. 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

JAN 17 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90180

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**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 May 2022 Complainant filed a notice of appeal in a bankruptcy case and an application for leave to proceed *in forma pauperis* in the district court. In July 2022, the Subject Judge entered an order denying the *in forma pauperis* application and dismissed the appeal as frivolous. Complainant then filed, among other things, a motion to alter or amend the judgment. In December 2022, the Subject Judge entered an order denying the motion and other motions Complainant had filed and

warned him that any further filings that asserted potentially fraudulent allegations could result in sanctions against him.

### **Complaint**

Complainant contends that the Subject Judge’s warning in his December 2022 order constituted “slander and libel as the Judge did knowingly, deliberately, and intentionally” conceal material facts concerning the status of the parties. He also alleges the Subject Judge assisted the appellees in committing “property fraud.” He attached documents to his Complaint.

### **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 engaged in libel or slander, concealed material facts, assisted others in the commission of fraud, 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