

JUL 19 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90010

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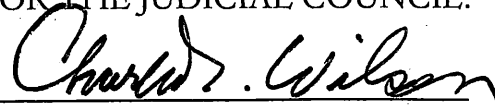
**ORDER**

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 the materials described in JCDR 18(c)(2), including petitioner's complaint, the order of Chief United States Circuit Judge William H. Pryor Jr., and the petition for review filed by petitioner. 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

FEB 28 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90010

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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 February 2016 Complainant, through counsel, filed a lawsuit against a business, its driver, and an insurance company, seeking damages related to an automobile accident. After various proceedings, the case went to trial, and the jury awarded Complainant \$6,000 in damages. Complainant's attorney then moved to withdraw, and the Subject Judge terminated counsel as attorney of record for Complainant in September 2020.

The next month, Complainant moved for a hearing and sanctions against his former attorney, alleging the attorney engaged in various types of misconduct and violations of professional rules of conduct. A hearing was held on the motion for sanctions in March 2021, and the minutes of the hearing show that the motion was denied for the reasons stated in the record. In April 2021, the Subject Judge issued an order denying the motion for sanctions, finding counsel's actions did not warrant sanctions under the court's inherent authority, that Complainant had not established any basis for a finding of misconduct or bad faith by counsel other than Complainant's own speculation and dissatisfaction with the jury's verdict for which he sought to blame counsel. Complainant moved for reconsideration, and the Subject Judge denied the motion on the ground that Complainant had not stated any permissible grounds for reconsideration. In October 2022, Complainant filed a motion to remove a protective order, and the next month, he filed a motion to allow access to evidence and a motion to recuse the Subject Judge.

### **Previous Judicial Complaint**

In July 2021, Complainant filed a Complaint of Judicial Misconduct or Disability against the Subject Judge pertaining to the above-referenced case. Among other things, Complainant alleged the Subject Judge failed to report professional misconduct, exhibited "clear favoritism" towards the defendants and their attorney and bias against him, retaliated against him, treated him in an "egregious and hostile manner," may have had improper *ex parte*

communications, appeared to be covering up misconduct, and colluded with the defense attorney. The previous complaint was dismissed in September 2021 on the grounds that the allegations were merits-related and based on insufficient evidence. Complainant filed a petition for review, and in November 2021, the Judicial Council Review Panel affirmed the dismissal of the complaint and denied the petition for review.

### **New Complaint**

In his new Complaint, Complainant states he has included “new evidence and new references of additional Canon Code violations.” He lists multiple examples of purported misconduct committed by his attorney and others that he reported to the Subject Judge, complains the Subject Judge failed to investigate or report the misconduct and instead publicly praised the attorney and “vilif[ied] and cast suspicion” on Complainant, “decided to aid in the misconduct and assist in the falsifications and cover ups,” violated codes of conduct, and allowed the defense attorney to imply that Complainant committed misconduct or insurance fraud.

Complainant takes issue with certain actions the Subject Judge took during the trial, and he complains the jury was not allowed to consider certain evidence. With respect to the hearing on Complainant’s motion for sanctions, he asserts the Subject Judge “acted very strange through out the hearing and it was clear he was covering up for the attorney[’]s falsehoods and other misconduct. The Judge kept giving speeches about peoples[’] memories fading.” He states his attorney “directly implicated” the Subject Judge in

“jury contact falsehoods,” but the Subject Judge stated he could not remember certain matters.

Complainant then takes issue with the Subject Judge’s April 2021 order denying the motion for sanctions. He asserts that the “true purpose” of the “very false and erroneous opinion” was so Complainant’s attorney would retaliate by filing a defamation lawsuit against him. He states, “It’s clear these events happening so close together, also again demonstrate there must be improper ex parte communications going on between the Judge / Court and the attorney(s), that at least needs [to be] investigated.” He states the Subject Judge or his staff must have “shared the judicial complaint with the attorney(s), because there was no other way of the attorneys knowing about the judicial complaint.” Complainant states his prior attorney is using the Subject Judge’s “false and phony opinion” as evidence that Complainant engaged in defamation and that the attorney has stated he would call the Subject Judge as a fact witness in the defamation case. Complainant states the Subject Judge’s opinion was “clear retaliation against [Complainant] for complaining about attorney misconduct and then later against [the Subject Judge].” Complainant asserts that, in the June 2021 order denying the motion for reconsideration, the Subject Judge falsely stated he did not submit any new evidence. Complainant asks, “Maybe he is having some kind of disability that needs [to be] investigated?”

As an example of “new” misconduct, Complainant states the Subject Judge has not ruled on his motions to unseal and motion

to recuse for months, which he alleges was in retaliation for him filing misconduct complaints against his attorney and the Subject Judge and an “effort to deliberately impede [his] discovery in defense and investigation of the new lawsuits.” He asserts the Subject Judge has “a history on this case of sitting on motions [] sometimes as long as 10 months.”

Complainant asserts the Subject Judge, through the clerk of court, appears to have deleted an offer of judgment from the record, which “may be an effort to ‘cook the books’ against” him. He states there are other documents that “seem to be missing” from the record, which establish that the Subject Judge committed misconduct and “maybe even possible fraud or obstruction of Justice.” Complainant then states that, during trial, the Subject Judge made a statement that it was odd Complainant and one defendant had the same middle name, and that the Subject Judge showed “extreme favoritism” to individuals who shared the Subject Judge’s last name. Complainant states that because of the Subject Judge’s “huge influence and all his close personal connections,” consideration should be given to transferring this complaint matter to another circuit. He also raises allegations against individuals other than the Subject Judge, and 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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, *i.e.*, assigning a low priority to deciding the particular case.”

In addition, when a complaint repeats allegations of a previously dismissed complaint, it is appropriate to dismiss those repeated allegations and address only allegations that have not previously been considered. *See* Judicial-Conduct Rule 11(c)(2).

As an initial matter, Complainant's request that this complaint matter be transferred to another judicial council is **DENIED**. The Complaint fails to present a basis for a finding of misconduct. To the extent the Complaint repeats allegations made in Complainant's previous complaint against the Subject Judge, those allegations have already been considered. Judicial-Conduct Rule 11(c)(2). To the extent Complainant's new 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 new 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 partial, made false statements, covered up misconduct, colluded with others, retaliated against Complainant, engaged in improper *ex parte* communications, suffered from a disability, violated the Code of Conduct for United States Judges, 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