

JUL 19 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90027 through 11-23-90030

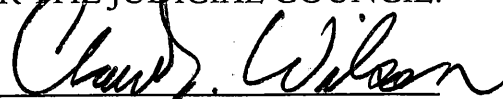
ORDER

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

MAR 21 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90027 through 11-23-90030

ORDER

An individual has filed a Complaint against two United States district judges, one current United States magistrate judge, and one former United States magistrate 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 June 2010 a federal grand jury returned a superseding indictment charging Complainant and three codefendants with multiple crimes. The case proceeded to trial where a jury found Complainant guilty of the two charges. In December 2010, the First Subject District Judge sentenced Complainant to a total term of five years of probation. This Court later affirmed Complainant's convictions.

Afterward, Complainant filed three petitions for a writ of error coram nobis challenging his convictions, and the First Subject District Judge denied the petitions. Complainant appealed the denial of this third petition, and this Court later granted the government's motion for summary affirmance on the grounds that Complainant failed to present sound reasons for failing to seek relief earlier and failed to demonstrate any fundamental error that made his prosecution irregular and invalid.

In January 2021, in the original criminal case, Complainant filed a motion for leave to file a coram nobis petition on the ground that exculpatory evidence had been withheld that caused a "jurisdictional error" in the case. Later that month, the First Subject District Judge issued an order denying the motion for leave to file and directing Complainant to show cause why sanctions should not be imposed. In February 2021, the First Subject District Judge entered an order imposing sanctions on Complainant and directing the clerk not to accept further pleadings pertaining to his convictions unless signed by a member of the court's bar.

The record also shows that in March 2019 Complainant filed an amended civil-rights complaint against multiple defendants, alleging claims stemming from his criminal case. The defendants filed motions to dismiss the amended complaint. In October 2019, the Second Subject Magistrate Judge issued a report recommending in part that the defendants' motions to dismiss be granted because Complainant failed to state a claim on which relief could be granted. Over Complainant's objections, the Second Subject

District Judge entered an order adopting the report and granting the defendants' motions to dismiss the case with prejudice.

Complaint

Complainant states his Complaint is “against abuse of power and corruption on Judiciary, for failure to report or disclose Gov discovery, breaking the basic principle of equality before the law, deceiving/harming innocent people by Interference or Failure to Comply [with] the Complaint Process which result in a complete miscarriage of justice.” Complainant then generally takes issue with his convictions and the rulings in the above-described cases, contending that evidence was suppressed, there was a lack of subject-matter jurisdiction, the criminal proceedings were “irregular and invalid,” and the district court and a panel of this Court colluded to cause an “error of law” and a miscarriage of justice. He attached documents to his Complaint.

Discussion

The Second Subject Magistrate Judge

Judicial-Conduct Rule 11(e) states, “The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible as to the subject judge.” The Commentary on Rule 11 states in part, “Rule 11(e) implements Section 352(b)(2) of the Act, which permits the chief judge to ‘conclude the proceeding,’ if ‘action on the complaint is no longer

necessary because of intervening events,’ such as a resignation from judicial office.”

To the extent the Complaint concerns the Second Subject Magistrate Judge, the intervening event of the judge’s retirement render the allegations moot or make remedial action impossible. Judicial-Conduct Rule 11(e). For that reason, this Complaint proceeding is **CONCLUDED** to the extent it concerns the Second Subject Magistrate Judge. The conclusion of this proceeding in part in no way implies that there is any merit to Complainant’s allegations against the Second Subject Magistrate Judge.

The Other Subject Judges

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.

With respect to the other Subject Judges, the Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations concern the substance of the other Subject Judges' official actions, rulings, findings, and orders in the above-described cases, the allegations are directly related to the merits of the other 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 other Subject Judges engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED** to the extent it concerns the other Subject Judges.

/s/ William H. Pryor Jr.
Chief Judge