

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

OCT 03 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90075

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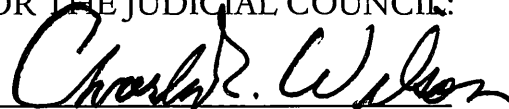
**ORDER**

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; COOGLER and BEAVERSTOCK, 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

JUL 03 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90075

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**ORDER**

An individual has filed a Complaint against a 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 2022 Complainant filed a civil-rights complaint against multiple defendants. The Subject Judge issued a report recommending that the complaint be dismissed without prejudice as malicious because Complainant failed to truthfully disclose his litigation history and because he was a “three-striker” who did not pay the filing fee or show he was in imminent danger of serious physical injury. Over Complainant’s objections, the district judge adopted the report and recommendation and dismissed

the case. This Court later clerically dismissed Complainant's appeal for want of prosecution.

### **Complaint**

Complainant states that "United States Judges have created a self-serving policy" to keep prisoners out of court by unconstitutionally expanding the Prisoner Litigation Reform Act through use of a civil-rights complaint form that asks about prior cases filed by prisoners. He asserts the policy is "an overreaching, overbroad, and burdensome gotcha mechanism designed to trap . . . unwary and unsophisticated pro se prisoners" who do not know or remember their prior cases and who are "being target[ed] for their history of prior litigation." He contends that district judges commit "defamation of character" against prisoners who inadvertently make mistakes leading to the "draconian sanction of dismissal" and violating prisoners' constitutional rights. Finally, Complainant states the policy "amounts to a usurpation of power – if not a treason to the Constitution."

### **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, findings, report, and recommendations 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, engaged in defamation, 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