

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 03 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90076

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

Judicial Complaint No. 11-23-90076

ORDER

An individual has filed a Complaint against a 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. The Subject Judge has retired.

Background

The record shows that in 2022 Complainant filed a second amended 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. The district judge adopted the report and recommendation and dismissed the case.

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 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.”

The intervening event of the Subject 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**. The conclusion of this proceeding in part in no way implies that there is any merit to Complainant's allegations against the Subject Judge.

/s/ William H. Pryor Jr.
Chief Judge