

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

DEC 08 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90081

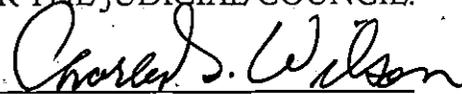
ORDER

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

JUL 11 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90081

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.

As an initial matter, after Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in 2023 Complainant filed a “Complaint under authority of 28 U.S.C. [§] 2255” in which he contended that the court lacked jurisdiction to prosecute him in an earlier criminal case. The Subject Judge entered an order dismissing the case for lack of jurisdiction on the ground that Complainant’s filing was an unauthorized second or successive motion to vacate, set

aside, or correct sentence. Complainant filed a motion to vacate the order, which the Subject Judge denied.

Complaint

Complainant states he twice challenged the court's jurisdiction to prosecute him and that Subject Judge denied both challenges without providing him meaningful access to the court, using a "patently false assertion" that his challenges were unauthorized successive motions to vacate, and disregarding that challenges to jurisdiction were "an exception to the rule." He asserts the Subject Judge's rulings were "contrary to law," obstructed justice, and showed "favoritism to the private person prison industry," and he contends the Subject Judge is a "stakeholder in the private prison industry."

Supplement

In his supplemental statement, Complainant generally alleges that judges and others are part of a scheme to imprison more individuals for the benefit of the private prison industry.

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, 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 made false statements, obstructed justice, was not impartial, was part of an illicit scheme, 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