

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 03 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90097

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.

Done this 3rd day of January, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

AUG. 23 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90097

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 2023 Complainant filed a *pro se* civil-rights complaint alleging that multiple defendants conspired to deny him relief to which he was entitled. Certain defendants filed motions to dismiss the complaint, and two defendants filed a motion to stay discovery pending a ruling on the motion to dismiss. Complainant filed an emergency motion for permission to file electronically and for an order directing the United States Marshals to serve certain defendants, contending in part that he had a financial hardship that warranted the relief sought. The Subject Judge then

entered an order denying Complainant's motion to file electronically, finding the circumstances of the case did not warrant an exception to the normal rule that *pro se* litigants must file documents in paper. The Subject Judge also granted the defendants' motion to stay discovery. There continues to be activity in the case.

Complaint

Complainant alleges the Subject Judge obstructed justice "by impeding civil grievances as a result of such that is demonstrably egregious and manifestly incompatible with the law." He takes issue with the Subject Judge's order denying his motion to file electronically, stating the Subject Judge failed to address the exceptional circumstances of his financial inability to serve the defendants. Complainant also contends that the Subject Judge's order was part of a conspiracy to obstruct justice, to assist the defendants, and to deny him relief, and that the Subject Judge violated his oath of office. 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.

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, rulings, findings, and order 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 obstructed justice, was part of a conspiracy, assisted the defendants, violated his oath of office, 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