

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

JAN 03 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90115

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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 3<sup>rd</sup> day of January, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

SEP 29 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90115

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**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 2022 Complainant filed a lawsuit against two defendants, a motion to disqualify the Subject Judge, and a motion for summary judgment. The Subject Judge later issued an order dismissing the case with prejudice, finding the action was an “attempted end run” around pre-filing-injunction orders issued against Complainant in two other cases. On appeal, this Court vacated the dismissal and remanded for further proceedings, determining the complaint did not fall within the scope of the pre-filing

injunction. In a footnote, this Court directed the district court on remand to determine whether Complainant served the defendants.

After this Court's mandate issued, the defendants filed in the district court a motion to dismiss. Two weeks later, the Subject Judge entered an order directing the clerk to reopen the case and to reinstate all motions pending when the case was closed. The Subject Judge also ordered Complainant to file a response to the motion to dismiss. Complainant then filed, among other things, an emergency motion to stay the proceedings pending the Subject Judge's disqualification from the case. The Subject Judge entered an order denying the motion to disqualify and an order granting the defendants' motion to dismiss.

### **Complaint**

Complainant alleges that, on remand, the Subject Judge "improperly conspired" with counsel for the defendants by "improperly allowing" him to file a motion to dismiss before the case had been reopened. He states the Subject Judge then improperly ordered him to respond to the motion when the Subject Judge had not complied with this Court's directive to determine whether the defendants had been served. Complainant asserts the "improper purpose" of the Subject Judge's order was to prevent the defendants' attorney from responding to his motion for summary judgment, which he contends should have been granted and would have required the reopening of "numerous cases that were fraudulently dismissed" by "corrupt judges." Complainant states the Subject Judge then violated a statute by failing to disqualify himself

from the case, and that his order denying the motion to disqualify showed his improper motive and personal bias against Complainant. Finally, he contends the Subject Judge committed fraud on the court by granting the defendants' motion to dismiss without first complying with this Court's directive regarding service. 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 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 acted with an illicit or improper motive, was part of a conspiracy, was biased or otherwise not impartial, committed fraud, 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