

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

MAY 7 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90119

ORDER

Before: ROSENBAUM, JILL PRYOR, and BRANCH, Circuit Judges; WALKER, Chief District Judge; and COOGLER, District Judge.

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 Acting Chief United States Circuit Judge Charles R. Wilson, 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 Acting Chief Judge Wilson. The petition for review is DENIED.

Done this 7th day of May, 2024.

FOR THE JUDICIAL COUNCIL:

/s/ Robin S. Rosenbaum
United States Circuit Judge

OCT 10 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90119

ORDER

An individual has filed a Complaint against a United States circuit 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 Complainant filed a Complaint of Judicial Misconduct or Disability against a United States district judge and a United States magistrate judge. The Subject Judge dismissed that Complaint as merits-related and based on allegations lacking sufficient evidence to raise an inference that misconduct had occurred.

Complaint

Complainant takes issue with the Subject Judge's order dismissing her previous Complaint, contending that the subject judges named in that Complaint engaged in misconduct and that the Complaint was "wrongfully dismissed." Complainant alleges the Subject Judge "failed to provide a fair and impartial review," acted with "bias and favor," disregarded facts, law, and constitutional provisions, "reframed the narrative of the complaint" as pertaining to the subject judges' rulings in an effort to protect the subject judges, knew the subject judges engaged in misconduct by acting outside of their authority, violated his oath of office, and breached his duty to maintain public confidence in the judiciary.

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.

In addition, the “Commentary on Rule 4” provides:

The phrase “decision or procedural ruling” is not limited to rulings issued in deciding Article III cases or controversies. Thus, a complaint challenging the correctness of a chief judge’s determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related — in other words, as challenging the substance of the judge’s administrative determination to dismiss the complaint — even though it does not concern the judge’s rulings in Article III litigation.

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 order dismissing the previous Complaint, 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 biased or otherwise not impartial, acted to protect other judges, 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/ Charles R. Wilson
Acting Chief Judge