

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 03 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90125

ORDER

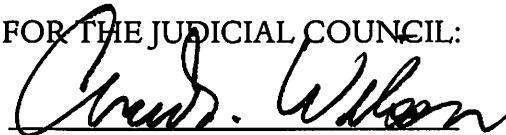
Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; COOGLER and TREADWELL, Chief District Judges.

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

OCT 19 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

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ORDER

An individual has filed a Complaint against a 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.

Background

The record shows that Complainant, a prisoner, filed a civil-rights action, 42 U.S.C. § 1983, against multiple defendants. The Subject Judge directed Complainant to pay the filing fee or file a motion to proceed *in forma pauperis*, and Complainant filed a motion for extension of time to pay the filing fee. The Subject Judge then issued an order and report in which he denied the motion for extension of time and recommended that the case be dismissed because Complainant had three or more “strikes” under the Prisoner Litigation Reform Act, 28 U.S.C. § 1915(g), and failed to establish

that he was in imminent danger. After Complainant paid the filing fee, the Subject Judge vacated the report and recommendation.

The Subject Judge later issued another report recommending that the case be dismissed as malicious and for abuse of the judicial process. The Subject Judge determined that Complainant failed to disclose at least two cases that the complaint form required him to disclose. The Complainant then moved to file an amended complaint and a proposed amended complaint, and the Subject Judge issued a supplement to the previous report, concluding that the amended complaint did not alter the earlier recommendation.

Complaint

Complainant takes issue with the question on the civil-rights complaint form that asks about prior litigation history, contending the question is used to keep prisoners out of court, is an “anti-prisoner judge-made policy that constitute[s] class-based (*i.e.* prisoners) private (*i.e.* U.S. judges privy of) conspiracies to deprive individuals” of their rights, amounts to a “usurpation of power if not a treason to the Constitution,” and creates an “appearance of judicial bias and prejudice.” Complainant alleges the Subject Judge displayed an anti-prisoner bias by exploiting the question to block Complainant from accessing the courts, maliciously abused the legal system, attacked him “with his anti-prisoner sentiment bigotry” when he sought an extension of time to pay the fee, was “hell-bent on dismissing” his complaint, made “disingenuous” statements to find that he abused the judicial process, “perpetrated a fraud,” and committed “defamation of character.”

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, reports, 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 biased or otherwise not impartial, was part of a conspiracy, engaged in fraud, treated Complainant in

a demonstrably egregious and hostile manner, 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