

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

JUN 06 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90165

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**ORDER**

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; WALKER, Chief District Judge; 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 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 6<sup>th</sup> day of June, 2024.

FOR THE JUDICIAL COUNCIL:

  
United States Circuit Judge

JAN 16 2024

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90165

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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 Complainant filed a civil-rights complaint against a police officer and a city, raising claims including false arrest and excessive force. One of the defendants later moved for summary judgment, and the Subject Judge denied the motion because the facts were contested. After additional proceedings, the case proceeded to trial. Following jury selection, counsel for the defendants informed the court that he had received a video from Complainant’s attorney, and the Subject Judge declared a mistrial. The defendants then filed a motion to dismiss the case and for

sanctions, alleging Complainant had attempted to perpetrate a fraud on the court and committed spoliation of evidence by altering certain video evidence and deleting certain emails.

At an evidentiary hearing on the motion, the Subject Judge made the following statements: (1) he had read “about half of the - - I ran out of time, I’m sorry, of the renewed or the new deposition of [Complainant]”; (2) “I’m not a real tech person. I still can’t do the VCR at the house”; and (3) he went to a certain lawyer’s “birthday party last night,” and two individuals and “all these lawyers” were there. After the hearing, the Subject Judge entered an order dismissing the case with prejudice as a sanction for spoliation, finding Complainant engaged in a pattern of willful contempt by tampering with critical evidence that impaired the court’s prior summary-judgment ruling and prejudiced the defense. The Subject Judge stated that Complainant gave false and disingenuous testimony at the evidentiary hearing, feigned ignorance of basic computer skills, violated her duty to preserve relevant e-discovery despite her litigation experience, and injured the court, the defense, and the public. On appeal, this Court affirmed the district court’s judgment, holding that Complainant abandoned any argument that the court erred in dismissing the case as a sanction for spoliation of evidence and false testimony.

### **Complaint**

Complainant takes issue with the dismissal of her case, asserts the Subject Judge imposed “exorbitant sanctions” on her, and contends the dismissal and sanctions were “extremely harsh, cruel,

abusive, and punitive with no proof of spoliation or perjury.” Complainant states that in his dismissal order, the Subject Judge made false statements, including that she committed perjury, that she stated that a certain phone had been stolen, that her testimony was disingenuous, and that she injured the court and the public. She contends the Subject Judge misconstrued evidence, lied about her deposition testimony, committed defamation and libel, disregarded her rights, deprived her of her right to a jury trial, and was biased in favor of the defendants. She states it was “hurtful” that the Subject Judge included her history of being falsely arrested on the first page of his dismissal order.

Complainant further contends that the Subject Judge “stated he did not have time to read my deposition before my evidentiary hearing, yet misconstrued what I stated in my deposition, falsely accusing me of perjury.” She states, “There is also a concern of the judge’s ability to properly weigh the facts of a technology issue, due to his admitted lack of basic technology knowledge,” noting he stated he was not a “tech person” and “still can’t do the VCR at the house.” She also contends that the Subject Judge’s statement that he went to a “lawyer’s party” and named certain lawyers was “inappropriate.” Finally, she asserts the Subject Judge “displayed inability (disability) to weigh the facts about spoliation for a technology issue.”

### **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, treated her in a demonstrably egregious and hostile manner, was biased, knowingly made false statements, suffered from a disability, 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