

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JUN 06 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90012

ORDER

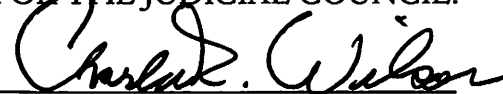
Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; WALKER, Chief District Judge; COOGLER District Judge.

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 6th day of June, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

JAN 31 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90012

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 copyright-infringement action against multiple defendants. The case was later reassigned to the Subject Judge. Complainant then filed a motion for a default judgment against one defendant and a motion to compel another defendant to respond to interrogatories. The Subject Judge denied the motion for a default judgment because the complaint failed to state a claim against the defendant and the defendant was not properly served, and the Subject Judge denied the motion to compel as premature. Complainant filed a motion for

reconsideration and a motion to disqualify the Subject Judge. The Subject Judge denied the motions and dismissed Complainant's claims against two defendants.

Afterward, Complainant filed another motion to compel a defendant to respond to interrogatories. The Subject Judge entered an order directing the clerk to enter a default against the defendant, denying the motion to compel as moot, and directing Complainant to submit a declaration setting forth the damages to which he was entitled. Complainant then filed a motion for a default judgment in which he requested a certain amount of damages. The case remains pending.

Complaint

Complainant alleges the Subject Judge showed bias and prejudice against him, denied him due process, refused to comply with "Federal Rules and procedure," refused to allow him to complete discovery, refused to acknowledge his motion to compel, and failed to award him a default judgment. 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 was biased or prejudiced 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