

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JUN 06 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90016

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

FEB 13 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90016

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 a federal grand jury returned an indictment charging Complainant with multiple crimes. Complainant later filed, among other things, a motion to dismiss one count, a motion for a separate trial on certain counts, and a motion to suppress, and the Subject Judge denied the motions. Afterward, a jury found Complainant guilty as charged in the indictment, and the Subject Judge sentenced him to a term of imprisonment.

Complaint

Complainant alleges the Subject Judge allowed the government to vindictively prosecute him and to “do as they wished” when another judge previously had “ruled against” the same charges. He contends that, at trial, the Subject Judge “allowed every irrelevant argument to sway the jury” and that “90% of this trial was about the Complainant’s original case, which was already adjudicated.” He states the same expert witness was used in both cases, that the Subject Judge allowed the expert’s fabricated statements and “exclusively relied” on the expert’s testimony. He also takes issue with the Subject Judge’s orders denying his motion to suppress and motion to sever.

Next, Complainant states he provided evidence of his innocence to his attorney, but his attorney failed to present the evidence at trial. He states he then delivered the evidence to the clerk, and that the Subject Judge later ordered that the documents be returned to Complainant’s prior attorney “in a manner that would appease the U.S. Government” and to conceal it from this Court. Complainant states that the Subject Judge “needlessly and for no reason” sentenced him at the top of the guideline range “just to convince the Government that he did not read the proof of innocence.” Complainant asserts he is being denied access to the courts. 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 not impartial, 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