

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JUN 06 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90019

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 29 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90019

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 complaint alleging that an individual and multiple entities committed fraud in certain state-court proceedings. The Subject Judge later entered an order dismissing the case for lack of subject-matter jurisdiction. Complainant filed a motion to vacate the judgment, contending the state-court decisions were obtained through fraud and due-process violations, and the Subject Judge denied the motion. Complainant then filed a “Motion for Void Judgment.” The motion was docketed as a motion to set aside the judgment and reopen the

case, and the Subject Judge denied the motion and stated that the court could consider sanctions if Complainant continued to file substantially similar or identical motions. Afterward, Complainant filed a motion to recuse the Subject Judge, which the Subject Judge denied.

Complaint

Complainant asserts that the Subject Judge knew or should have known that, in the state-court proceedings, the defendants committed fraud on the court, they denied him due process, and he was denied an impartial tribunal. He takes issue with the Subject Judge's orders in the case and contends the Subject Judge "ridiculed" his complaint and threatened to sanction him. Next, Complainant contends his motion for a void judgment was intentionally treated as a second motion to vacate the judgment "since void judgment is mandatory if the evidence supports fraud and denial of due process, motion to vacate does not." Finally, he asserts the Subject Judge exhibited contempt for him as a *pro se* litigant.

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 him 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