

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

JUL 15 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-24-90023 and 11-24-90024

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ORDER

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; ALTONAGA, Chief District Judge; and 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 15<sup>th</sup> day of July, 2024.

FOR THE JUDICIAL COUNCIL:

Charles D. Wilson

United States Circuit Judge

MAR 18 2024

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-24-90023 and 11-24-90024

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**ORDER**

An individual has filed a Complaint against a United States magistrate judge and 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 a certain administrative agency had been unlawfully created, as well as a motion for leave to proceed *in forma pauperis*. The Subject Magistrate Judge entered orders granting the *in forma pauperis* motion and directing Complainant to file an amended complaint. After Complainant filed an amended complaint, the Subject Magistrate Judge directed the clerk to refer the amended complaint to chambers for screening. *See* 28 U.S.C. § 1915(e)(2)(B). Approximately five-and-a-half months later, Complainant filed a

“Memorandum” in which he requested that a decision be made on his amended complaint. A little over a month after that, he filed a motion to “waive” the rule that provides for the screening of the complaint by a magistrate judge. The case remains pending.

### **Complaint**

Complainant alleges the Subject Magistrate Judge unduly delayed screening his final amended complaint, and failed to address his motions related to the delay. He states that the Subject District Judge is responsible for the case’s progression, and that neither Subject Judge has taken any steps to screen his complaint or rule on his motions. Complainant states, “This does not appear to be mere oversight as all three documents were promptly referred to the Judge’s chambers,” and that there is nothing to indicate the Subject Judges’ workload precluded them from ruling on his filings.

Complainant states he “sought legal advice from a number of lawyers and the consensus reached is that my underlying claims would cause significant embarrassment to the [state’s] legal system” because if his claims are correct, all bar admissions in the state since the late 1950s “would arguably be illegal.” He states that “advocates have advised me that the likely reason” the district court is not acting is because the claims he raised “would invariably lead to untenable institutional consequences.” He contends “there is arguably an improper motive [for the delay] or anyway it is not a particular decision being delayed, as both screening and waiver decisions are delayed.” In any event, Complainant states, he “do[es] not accept” that delay in a single case can never be misconduct just

because there is no improper motive. Finally, he states, “I submit the length, pattern of delay and apparently willful refusal to respond to my repeated filings suffices to raise a cognizable claim of misconduct.” 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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded

as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, *i.e.*, assigning a low priority to deciding the particular case.”

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant’s allegations concern the substance of the Subject Judges’ official actions and orders in the above-described case, the allegations are directly related to the merits of the Subject Judges’ 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 Judges delayed acting due to an illicit or improper motive 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