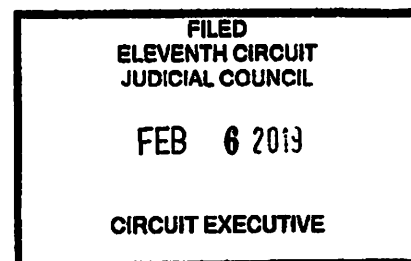


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-18-90088



**IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY**

ON PETITION FOR REVIEW*

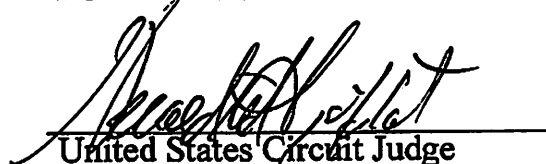
Before: TJOFLAT, MARCUS, WILSON, WILLIAM PRYOR, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, and NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, WATKINS, DuBOSE, HALL, and WALKER, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Wilson, William Pryor, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 19 November 2018, and of the petition for review filed by the complainant on 10 December 2018, with no non-disqualified judge on the Judicial Council Review Panel having requested that this matter be placed on the agenda of a meeting of the Judicial Council,

The Judicial Council Review Panel hereby determines that the disposition of this matter was proper and said disposition is hereby **AFFIRMED**.

The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes did not take part in the review of this petition.

CONFIDENTIAL

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

NOV 19 2018

David J. Smith
Clerk

**BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT**

Judicial Complaint No. 11-18-90088

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. District Judge for the U.S. District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States District Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

Background

The record shows that in February 2018 Complainant filed a “Criminal Civil Rights Complaint” raising multiple claims against various defendants, including state and federal judges. He also filed, among other things, a “Motion for Leave to Appear Under USERRA [Uniformed Services Employment and Reemployment Rights Act of 1994] §4323 and Pay No Fees or Court Costs During this Case.”

The Subject Judge then entered an order dismissing the case, finding that: (1) Complainant’s claims against one defendant had been addressed in previous cases; (2) his claims against judicial officers were barred by the doctrine of absolute judicial immunity; and (3) the court was unable to discern any claims brought against other defendants or that were not based on a judicial officer’s decisions in Complainant’s cases. The order also denied all pending motions as moot. Complainant filed a motion for reconsideration, which the Subject Judge denied.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge: (1) “mismanaged the induction” of his complaint; (2) “refused to provide the 16 mandated case induction summons for service”; (3) failed to address the charges in the complaint and refused to rule on certain motions; (4) “discriminated against [Complainant] unlawfully depriving him his Constitutional right to file his case before the District Court”; (5) acted without jurisdiction in the case; and (6) “falsif[ied] the record” in her order dismissing the complaint.

Complainant states it is “clearly obvious” the Subject Judge “had no comprehension” of the United States Constitution, the USERRA, and other statutes. He also asserts that the Subject Judge unlawfully deprived him of his rights, failed to comply with binding precedent, intentionally violated her oath of office, acted to obstruct justice, and committed a criminal act under 18 U.S.C. § 1503, “Influencing or injuring officer or juror generally.”

Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include “an allegation that is directly related to the merits of a decision or procedural ruling.” The Rule provides that “[a]n allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.” Id. The “Commentary on Rule 3” states in part:

Rule 3(h)(3)(A) 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 power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge’s ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in Complainant’s case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his claims that the Subject Judge engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B), and the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge