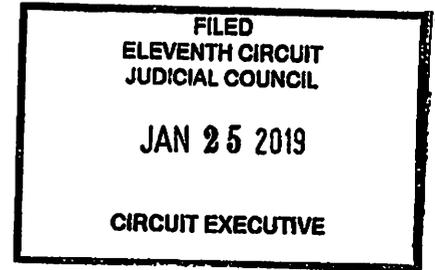


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-18-90090



**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, and HALL, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Wilson, William Pryor, Land, and Hall, the order of Chief Judge Ed Carnes, filed on 30 October 2018, and of the petition for review filed by the complainant on 15 November 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 and Chief District Judge Mark E. Walker did not take part in the review of this petition.

CONFIDENTIAL

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

Judicial Complaint No. 11-18-90090

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 30 2018

David J. Smith
Clerk

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 1997 a jury found Complainant guilty of a drug-related offense, and the Subject Judge sentenced him to a term of imprisonment. After various additional proceedings, in April 2018 Complainant filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence, raising various challenges to his conviction and sentence. The next month, a magistrate judge issued a report recommending that the § 2255 motion be summarily dismissed for lack of jurisdiction as an unauthorized second or successive motion to vacate. Over Complainant’s objections, the Subject Judge adopted the report and recommendation, summarily dismissed Complainant’s § 2255 motion, and denied him a certificate of appealability.

In June 2018 Complainant filed a notice of appeal and attached a motion to proceed in forma pauperis (IFP). A couple of days later, the district court transmitted the notice of appeal to this Court along with a letter from the district court clerk’s office stating, “No IFP Motion/No Fee.” In early July 2018 Complainant filed an IFP motion in the district court, and the docket sheet indicates that the motion was initially sent to this Court. The Subject Judge denied the IFP motion, finding that the appeal was not taken in good faith. Complainant later filed a motion to proceed IFP with this Court.

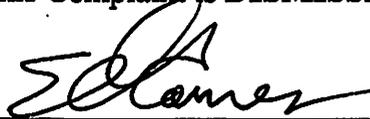
Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that when the district court transmitted his notice of appeal to this Court, the transmittal letter, at the direction of the Subject Judge, incorrectly stated that no IFP motion had been filed. He also alleges that, at the direction of another individual, staff members at his place of incarceration withheld his mail, which prevented him from receiving a notice from this Court. Complainant asserts that the Subject Judge conspired with another individual to conceal incorrect information in the district court's transmittal letter and to withhold this Court's notice. He states there was "clear intent" to deny him access to this Court. He attached documents to his Complaint.

Discussion

Complainant provides no credible facts or evidence in support of his claims that the Subject Judge directed that incorrect information be included in a transmittal letter, was part of a conspiracy, or otherwise engaged in misconduct.

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 that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(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