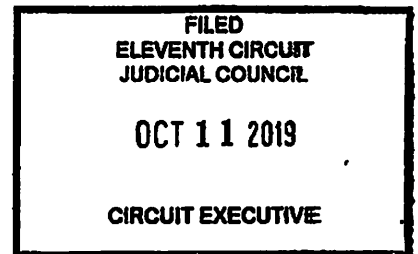


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-19-90035



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

ON PETITION FOR REVIEW*

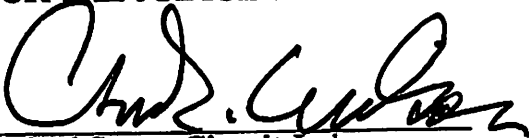
Before: MARCUS, WILSON, WILLIAM PRYOR, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, and NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, William Pryor, Martin, Land, and Walker, the order of Acting Chief Judge Tjoflat, filed on 31 July 2019, and of the petition for review filed by the complainant on 9 August 2019, 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 Circuit Judge Gerald Bard Tjoflat did not take part in the review of this petition.

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

11-19-90036

FILED ELEVENTH CIRCUIT JUDICIAL COUNCIL OCT 11 2019 CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

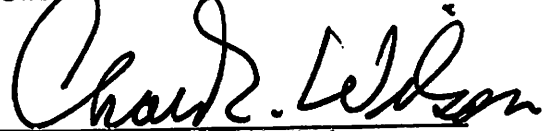
Before: MARCUS, WILSON, WILLIAM PRYOR, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, and NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, William Pryor, Martin, Land, and Walker, the order of Acting Chief Judge Tjoflat, filed on 31 July 2019, and of the petition for review filed by the complainant on 9 August 2019, 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 Circuit Judge Gerald Bard Tjoflat did not take part in the review of this petition.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JUL 31 2019

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-19-90035 and 11-19-90036

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate Judge _____ and United States District Judge _____ of the United States 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 Magistrate Judge _____ and United States District Judge _____ (collectively, “the Subject Judges”), 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”).

As an initial matter, after Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statement is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in October 2018 Complainant filed a document entitled “Application to Convene a Special Grand Jury” in which he sought the appointment of a grand jury in connection with certain alleged crimes committed against him. The document was docketed as a complaint for mandamus relief. The next month, Judge _____ issued a report recommending the action be dismissed without prejudice because Complainant had at least three “strikes” under 28 U.S.C. § 1915(g) and he failed to pay the filing fee.

Complainant filed objections to the report and recommendation in which he alleged in part that his application was “illegally converted” into a complaint for mandamus relief. In December 2018 Judge _____ issued an order adopting the report and recommendation and dismissing the case pursuant to § 1915(g) and due to Complainant’s failure to pay the filing fee.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant first asserts that his Application to Convene a Special Grand Jury was illegally converted into a request for mandamus relief. He then alleges that Judge _____ willfully, conspiratorially, and criminally assessed a civil filing fee “in order to collect an illegal filing fee and to further the obstruction of a special grand jury proceeding.”

Next, Complainant alleges Judge _____ “willfully and criminally acted in concert to further the obstruction of a special grand jury in this matter by failing to acknowledge and rule on” his objections to Judge _____ report and recommendation. He contends the Subject Judges violated his constitutional rights and committed a “host of federal offenses.” He also takes issue with the actions of individuals other than the Subject Judges.

Supplement

In his supplemental statement, Complainant alleges there has been “willful delay” in the review of his Complaint of Judicial Misconduct or Disability. He also reiterates his allegations that his application was illegally converted into a mandamus petition, and he asserts that Judge _____ engaged in racketeering by requiring a civil filing fee. Finally, he seeks various actions by the Judicial Council.

Discussion


Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, “Allegations Related to the Merits of a Decision or Procedural Ruling,” 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” states in part:

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.

To the extent Complainant’s allegations concern the substance of the Subject Judges’ official actions, findings, report, and orders in the case, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings.

Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his claims that the Subject Judges committed a crime, were part of a conspiracy, or otherwise 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**.



Acting Chief Judge