

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

11-19-90039

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 10 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

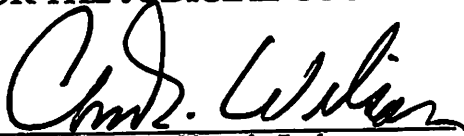
Before: WILSON, WILLIAM PRYOR, NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, William Pryor, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 8 August 2019, and of the petition for review filed by the complainant on 21 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, as well as Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Beverly B. Martin, Adalberto Jordan, Robin S. Rosenbaum, and Jill A. Pryor did not take part in the review of this petition.

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

11-19-90040

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 10 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*


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

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

11-19-90041

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

OCT 10 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

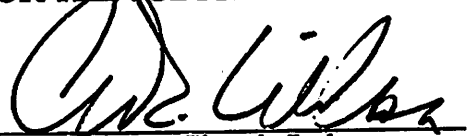
Before: WILSON, WILLIAM PRYOR, NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

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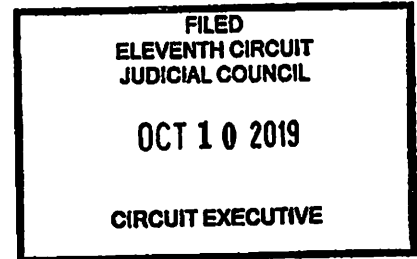
FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

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

11-19-90042



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

ON PETITION FOR REVIEW*

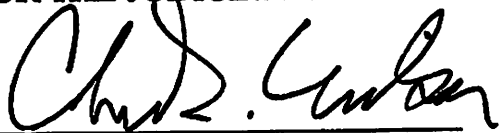
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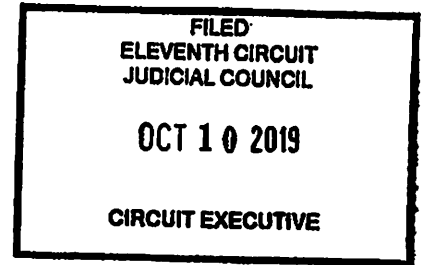
FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

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

11-19-90043



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

ON PETITION FOR REVIEW*

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

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

11-19-90044

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

OCT 10 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

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

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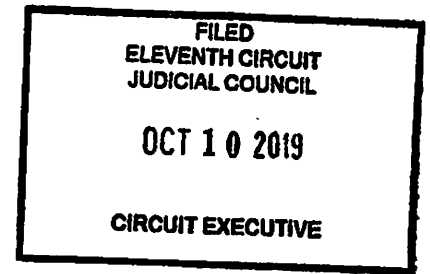


United States Circuit Judge

* Chief Circuit Judge Ed Carnes, as well as Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Beverly B. Martin, Adalberto Jordan, Robin S. Rosenbaum, and Jill A. Pryor did not take part in the review of this petition.

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

11-19-90045



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

ON PETITION FOR REVIEW*

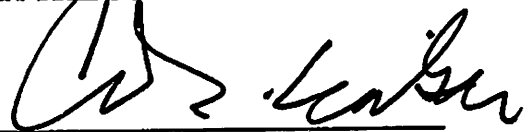
Before: WILSON, WILLIAM PRYOR, NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

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The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

* Chief Circuit Judge Ed Carnes, as well as Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Beverly B. Martin, Adalberto Jordan, Robin S. Rosenbaum, and Jill A. Pryor did not take part in the review of this petition.

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

11-19-90046

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

OCT 10 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

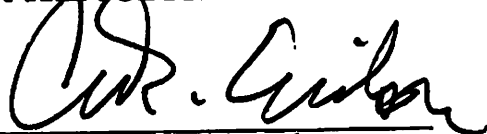
Before: WILSON, WILLIAM PRYOR, NEWSOM, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL, WALKER, and MARKS, Chief District Judges.

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The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes, as well as Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Beverly B. Martin, Adalberto Jordan, Robin S. Rosenbaum, and Jill A. Pryor did not take part in the review of this petition.

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

11-19-90047

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

OCT 10 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*


Before: WILSON, WILLIAM PRYOR, 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, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 8 August 2019, and of the petition for review filed by the complainant on 21 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,

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The foregoing actions are **APPROVED**.

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United States Circuit Judge

* Chief Circuit Judge Ed Carnes, as well as Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Beverly B. Martin, Adalberto Jordan, Robin S. Rosenbaum, and Jill A. Pryor did not take part in the review of this petition.

CONFIDENTIAL

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

AUG 08 2019

David J. Smith
Clerk

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

Judicial Complaint Nos. 11-19-90039 thru 11-19-90047

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate Judge _____ and United States District Judges _____ and _____ of the United States District Court for the _____ District of _____, and United States Circuit Judges _____, _____, _____, _____, _____, and _____ of the United States Court of Appeals for the _____ Circuit, 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 _____, United States District Judges _____ and _____, and United States Circuit Judges _____, _____, _____, _____, _____, and _____ (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 six supplemental statements. The filing of the supplemental statements is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in August 2018 Complainant filed an amended 28 U.S.C. § 2254 petition for writ of habeas corpus challenging a certain state court conviction. The respondents filed a motion to dismiss the petition due to Complainant’s pending state court challenges to his conviction and sentence. In October 2018 Complainant filed a motion to disqualify Judge _____ on the ground that he was biased against Complainant, and Judge _____ denied the motion, finding the unsubstantiated allegations of bias did not require recusal.

Later in October 2018 Judge _____ entered an order denying Complainant’s § 2254 petition and dismissing the case without prejudice because he was challenging the same conviction in state court. Complainant then filed multiple motions seeking various

types of relief, including a motion for rehearing in which he alleged that Judge _____ committed fraud. In November 2018 Judge _____ entered an order denying Complainant's motion for rehearing, noting he still had a proceeding pending in state court related to the underlying conviction being challenged.

In January 2019 Complainant filed a motion to disqualify Judge _____, which Judge _____ denied because the case had been dismissed. After that, Complainant filed, among other things, multiple motions to vacate orders issued in the case, which Judge _____ or Judge _____ denied. In April 2019 Complainant filed a "Motion to Disqualify / Motion to Vacate" in which he alleged that Judges _____ and _____ were biased against him and had engaged in improper conduct. Judge _____ entered an order denying the motion and directing Complainant to show cause why sanctions should not be imposed as a result of his "continued frivolous, abusive, duplicative, or redundant filings."

Complainant filed multiple notices of appeal in the case. In one appeal, filed with respect to multiple orders, a panel of this Court composed of Judges _____, _____, and _____ entered an order in December 2018 dismissing the appeal for lack of jurisdiction, determining the orders at issue were not final or otherwise appealable. Complainant filed a motion for reconsideration, which the panel denied.

In another appeal, filed with respect to the denial of a certain motion, Judge _____ issued an order in February 2019 denying Complainant's motion to proceed in forma pauperis (IFP), determining he had no non-frivolous issue he could raise on appeal. Complainant filed a motion for reconsideration, and a panel composed of Judges _____ and _____ denied the motion. This Court later clerically dismissed the appeal for want of prosecution. This Court clerically dismissed another appeal Complainant filed for want of prosecution.

In addition, in September 2018 Complainant filed in this Court a petition for writ of prohibition on which he listed two district court case numbers. In January 2019 Judge _____ issued an order denying Complainant's motion to proceed IFP because his prohibition petition was frivolous. The order stated that, liberally construing his petition, Complainant appeared to seek review of several orders the district court issued in his § 2254 proceeding, and that Complainant had appealed the dismissal of his § 2254 petition, which brought up all preceding non-final orders. Complainant filed a motion for reconsideration and a motion to expedite, and a panel composed of Judges _____ and _____ denied those motions, determining the motion for reconsideration did not demonstrate any point of law or fact that was overlooked or misapprehended and that the motion to expedite was moot. After that, this Court clerically dismissed the petition for writ of prohibition for want of prosecution.

The record also shows that in June 2018 Complainant filed in the district court a § 2254 petition challenging certain state court convictions. After that, he filed numerous motions and petitions seeking various types of relief, including a motion to disqualify Judge _____, and Judge _____ denied the motions and petitions, generally finding Complainant did not establish he was entitled to the relief sought. In one order, Judge _____ directed Complainant to show cause why the action should not be dismissed in light of pending state court proceedings related to the convictions being challenged.

Complainant filed a response in which he argued there were no pending cases in state court. He then filed, among other things, motions for judgment on the pleadings and a motion to disqualify, and Judge _____ denied those motions. In January 2019 the respondents filed a response in which they argued Complainant's § 2254 petition should be dismissed because he had a case pending in state court. Complainant filed an objection in which he argued that no challenge to the convictions remained pending in state court.

Complainant filed multiple notices of appeal in the case. In one appeal, filed with respect to multiple district court orders, a panel composed of Judges _____, _____, and _____ issued an order in January 2019 dismissing the appeal for lack of jurisdiction, determining the orders at issue were not final or otherwise immediately appealable. Complainant filed a motion for reconsideration, which the panel denied. This Court clerically dismissed another appeal Complainant filed for want of prosecution. Complainant also filed in this Court a petition for writ of mandamus, which this Court clerically dismissed for want of prosecution.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant "alleges intentional misconstruction[,], intentional misfiling, and conduct to inhibit" his "due process procedural rights . . . at the behest of the state." Complainant then generally alleges that this Court issued orders that contained inaccurate statements and erroneous conclusions, and that the orders were the result of "fraud, deceit, [and] collusion." He specifically alleges that Judges _____ and _____ issued an order "fraudulently denying" his motion for reconsideration in the proceedings involving his prohibition petition.

Complainant also takes issue with the district court's and this Court's processing of documents he submitted, alleging that both courts "intentionally misconstrue[] and intentionally misfile[]" his pleadings. He states that this Court and the district court "fraudulently allege liberal construction," but "intentionally misconstrue pleadings solely to fail, when they clearly require relief." He contends that the substance of pleadings has never been considered.

Supplements

In his first supplemental statement, Complainant alleges that documents he submitted remain unfiled or have been intentionally misconstrued or misfiled “creating false intervening events” and “future grounds, past, present, and future to inhibit” his “substantive rights and due process procedural rights.” In his second supplement, Complainant generally reiterates his allegations that his documents have been intentionally misconstrued and mishandled, and that the district court and this Court engaged in fraud. In the third supplement, Complainant reiterates his allegations that documents have been intentionally misconstrued and mishandled, and he asserts that documents were “unlawfully returned” to him. He attached various documents to the third supplement.

In the fourth and fifth supplements, Complainant reiterates his allegations that his documents have been intentionally misconstrued and mishandled. Also in the fifth supplement, Complainant appears to allege the Subject Judges engaged in, among other things, fraud and racketeering, and he requests that the Subject Judges show cause as to why they should not be prosecuted or sanctioned. In the sixth supplement, Complainant alleges court clerks engaged in misconduct “at the behest of the Judiciary.”

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, rulings, findings, and orders in his cases and appeals, the allegations are directly related to the merits of the Subject Judges’ 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 Judges engaged in fraud or collusion, 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**.

A handwritten signature in black ink, appearing to read "S. L. Hamer", is written over a horizontal line.

Chief Judge