

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2020

CIRCUIT EXECUTIVE

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

11-19-90137

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

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, Chief Judge, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Jordán, Jill Pryor, Branch, Coogler, and Walker, the order of then-Chief Judge Ed Carnes, filed on 13 May 2020, and of the petition for review filed by the complainant on 26 May 2020, 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

* Circuit Judges Charles R. Wilson, Beverly B. Martin, and Britt C. Grant did not take part in the review of this petition.

FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT

11-19-90138

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2020

CIRCUIT EXECUTIVE

IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, Chief Judge, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

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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

* Circuit Judges Charles R. Wilson, Beverly B. Martin, and Britt C. Grant did not take part in the review of this petition.

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2020

CIRCUIT EXECUTIVE

FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT

11-19-90139

IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, Chief Judge, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Jordán, Jill Pryor, Branch, Coogler, and Walker, the order of then-Chief Judge Ed Carnes, filed on 13 May 2020, and of the petition for review filed by the complainant on 26 May 2020, 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

* Circuit Judges Charles R. Wilson, Beverly B. Martin, and Britt C. Grant did not take part in the review of this petition.

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2020

CIRCUIT EXECUTIVE

FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT

11-19-90140

IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, Chief Judge, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Jordán, Jill Pryor, Branch, Coogler, and Walker, the order of then-Chief Judge Ed Carnes, filed on 13 May 2020, and of the petition for review filed by the complainant on 26 May 2020, 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

* Circuit Judges Charles R. Wilson, Beverly B. Martin, and Britt C. Grant did not take part in the review of this petition.

FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT

11-19-90141

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2020

CIRCUIT EXECUTIVE

IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, Chief Judge, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Jordán, Jill Pryor, Branch, Coogler, and Walker, the order of then-Chief Judge Ed Carnes, filed on 13 May 2020, and of the petition for review filed by the complainant on 26 May 2020, 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

* Circuit Judges Charles R. Wilson, Beverly B. Martin, and Britt C. Grant did not take part in the review of this petition.

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

11-19-90142

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2020

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, Chief Judge, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Jordán, Jill Pryor, Branch, Coogler, and Walker, the order of then-Chief Judge Ed Carnes, filed on 13 May 2020, and of the petition for review filed by the complainant on 26 May 2020, 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

* Circuit Judges Charles R. Wilson, Beverly B. Martin, and Britt C. Grant did not take part in the review of this petition.

CONFIDENTIAL

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

MAY 13 2020

David J. Smith
Clerk

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint Nos. 11-19-90137 through 11-19-90142

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 _____, 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 Judge _____, 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 two supplemental statements. The filing of the supplemental statements is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in May 2015 Complainant filed a prisoner civil rights action against one defendant, generally alleging that he was being denied certain services to which he was entitled. He also filed a motion to proceed *in forma pauperis* (IFP) and other documents in which he generally alleged that he was in imminent danger of serious physical injury. In June 2015 Judge _____ entered an order denying Complainant’s IFP motion and dismissing the complaint without prejudice, finding that Complainant had “three strikes” under 28 U.S.C. § 1915(g) and had not shown that he was in imminent danger of serious physical injury. Complainant appealed.

In February 2017 a panel of this Court that did not include any of the Subject Judges: (1) held that Complainant had sufficiently alleged that he faced imminent danger of serious physical injury; (2) reversed the district court’s judgment denying Complainant

leave to proceed IFP and dismissing his complaint; and (3) remanded the case for further proceedings. In April 2017 Judge _____ issued an order that granted Complainant's IFP motion and directed him to submit a recast complaint.

The next month, Complainant filed a recast complaint against multiple defendants, raising various claims and alleging in part that defendants had conspired to deny him his rights and had retaliated against him for reporting unlawful conduct at his place of incarceration. In August 2017 Judge _____ issued an order and recommendation in which he, among other things: (1) found that Complainant's retaliation claims against three defendants should proceed for further factual development; and (2) recommended that the remaining claims be dismissed without prejudice for failure to state a claim. After that, Complainant filed objections to the report and recommendation and multiple motions seeking various types of relief.

In January 2018 Judge _____ entered an order and recommendation that, among other things, denied various motions and recommended denial of a motion for injunctive relief that Complainant had filed. Later that month, Complainant filed a motion seeking the disqualification of Judges _____ and _____, generally alleging that they were biased and prejudiced against him. In March 2018 three defendants filed two separate motions for summary judgment.

In April 2018 Judges _____ and _____ issued orders denying Complainant's motion seeking their recusal. Judge _____ also issued an order in which he, among other things: (1) adopted Judge _____ August 2017 and January 2018 reports and recommendations; (2) ruled that Complainant's retaliation claims against three defendants could proceed; and (3) dismissed the remaining claims without prejudice. Complainant filed a motion for reconsideration of the order dismissing his claims as well as objections to the orders denying his motions seeking disqualification.

In May 2018 Judge _____ entered an order denying Complainant's motion for reconsideration and overruling his objections. Complainant filed a request for an interlocutory appeal of the order and a motion to appeal IFP. In July 2018 Judge _____ denied the motion for an interlocutory appeal and denied the IFP motion because the appeal was frivolous. The next month, a two-judge panel that did not include any of the Subject Judges dismissed the appeal in part for lack of jurisdiction. In May 2019 Judge _____ issued an order denying Complainant leave to proceed IFP in the appeal, finding that the appeal was frivolous. Complainant filed a motion for reconsideration, which a two-judge panel that included Judge _____ denied. In August 2019 this Court clerically dismissed the appeal for want of prosecution.

Meanwhile, in November 2018 in the district court, Judge _____ issued a report recommending that the defendants' motions for summary judgment be granted, generally finding no genuine issue of material fact existed and that two defendants were

entitled to qualified immunity. Over Complainant's objections, in March 2019 Judge _____ issued an order adopting the report and recommendation and granting the defendants' motions for summary judgment.

Complainant appealed and filed motions to proceed IFP in this Court and for the appointment of counsel. In August 2019 Judge _____ issued an order finding the appeal was frivolous, denying Complainant's motion to proceed based on imminent danger, and denying his motion for the appointment of counsel. Complainant filed a motion for reconsideration, in October 2019 and a panel composed of Judges _____ and _____ denied the motion. The next month, this Court clerically dismissed the appeal for want of prosecution.

The record also shows that in July 2018 Complainant filed a prisoner civil rights action against multiple defendants, alleging the defendants were part of a conspiracy to murder him to prevent him from exercising his First Amendment right to seek redress. He also moved to proceed IFP. In October 2018 Judge _____ granted Complainant's IFP motion and directed him to file a recast complaint. After that, Complainant filed a recast complaint and motions seeking various types of relief.

In April 2019 Judge _____ issued an order and recommendation in which he recommended that Complainant's claims be dismissed and his pending motions be denied as moot, generally finding that Complainant had not established that he was entitled to relief on his claims. Over Complainant's objections, a district judge who is not one of the Subject Judges adopted the order and recommendation, dismissed the recast complaint without prejudice, and denied the remaining motions as moot. Complainant appealed.

Complainant moved for leave to proceed IFP on appeal based on imminent danger. In October 2019 a panel that included Judges _____ and _____ entered an order determining that Complainant had sufficiently alleged he was in imminent danger but denying him leave to proceed and dismissing the appeal because it was frivolous. Complainant filed a motion for reconsideration, which the panel denied in January 2020.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judges brought the integrity of the judicial branch into question by failing to be faithful to their oaths of office. Complainant alleges that the Subject Judges violated multiple canons of the Code of Conduct for United States Judges and their oaths of office by not following laws and United States Supreme Court precedent. He asserts that they "refuse to acknowledge" the violation of law by the defendants in his case and "continue to allow their court clerk to commit fraud" by dismissing his appeals "on false grounds."

Complainant contends that this Court's opinion remanding his case to the district court determined that he had stated a claim and that the Subject Judges acted to undermine that decision by forcing him to file separate actions against federal and state officials. He states he has been assaulted for exercising his First Amendment rights and that the Subject Judges have ignored that he is in imminent danger. He complains about the determinations that his claims were frivolous, calling it a miscarriage of justice, and he states that the impartiality of the Subject Judges has been called into question.

Supplements

In his first supplemental statement, Complainant states that two of his appeals were unconstitutionally and unlawfully dismissed. He alleges that the Subject Judges are part of a scheme to cover up an unlawful conspiracy and that they violated his constitutional rights. Complainant also alleges that the district court has failed to act on his allegations and has placed him in imminent danger of serious physical injury. Finally, he alleges that the circuit court Subject Judges made misrepresentations when finding that his appeals were frivolous. He attached documents to his first supplement.

In his second supplement, Complainant alleges that a unnamed circuit court Subject Judge abused his or her authority by failing to follow rules on a single judge's authority to act on motions and by dismissing an appeal with "political over[tones]" to cover up an unlawful conspiracy to murder him.

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, orders, and opinions in Complainant's 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 with which Complainant takes issue, he provides no credible facts or evidence in support of his claims that the Subject Judges violated their oaths of office or the Code of Conduct for United States Judges, were not impartial, were part of a conspiracy or sought to cover up a conspiracy, made misrepresentations, 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**.



Chief Judge