

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

11-18-90157

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

AUG 23 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

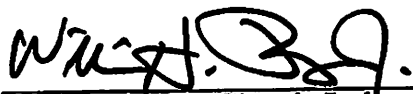
Before: WILLIAM PRYOR, JORDÁN, and NEWSOM, Circuit Judges;
MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL,
WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges William Pryor, Jordan, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 21 May 2019, and of the petition for review filed by the complainant on 20 June 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 Judges Gerald Bard Tjoflat, Stanley Marcus, Charles R. Wilson, Beverly B. Martin, 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**

11-18-90158

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 23 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

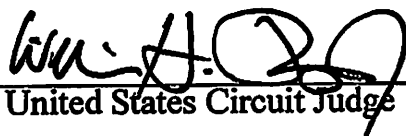
Before: WILLIAM PRYOR, JORDÁN, and NEWSOM, Circuit Judges;
MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL,
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FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

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

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 23 2019

CIRCUIT EXECUTIVE

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

11-18-90159

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

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, JORDÁN, 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 William Pryor, Jordan, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 21 May 2019, and of the petition for review filed by the complainant on 20 June 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**.

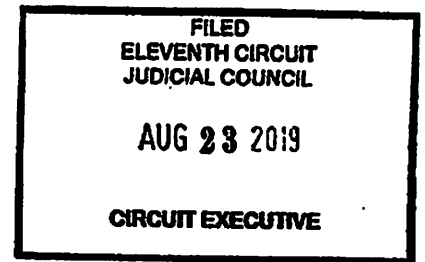
FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes, and Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Charles R. Wilson, Beverly B. Martin, 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**

11-18-90160



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

ON PETITION FOR REVIEW*

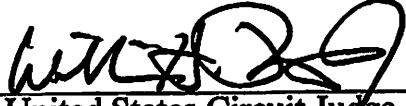
Before: WILLIAM PRYOR, JORDÁN, and NEWSOM, Circuit Judges;
MOORE, MERRYDAY, THRASH, BOWDRE, LAND, DuBOSE, HALL,
WALKER, and MARKS, Chief District Judges.

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FOR THE JUDICIAL COUNCIL:

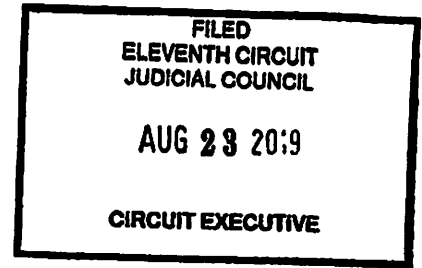


United States Circuit Judge

* Chief Circuit Judge Ed Carnes, and Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Charles R. Wilson, Beverly B. Martin, 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**

11-18-90161



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

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, JORDÁN, 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 William Pryor, Jordan, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 21 May 2019, and of the petition for review filed by the complainant on 20 June 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**.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes, and Circuit Judges Gerald Bard Tjoflat, Stanley Marcus, Charles R. Wilson, Beverly B. Martin, 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**

11-18-90162

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

AUG 23 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

Before: WILLIAM PRYOR, JORDÁN, 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 William Pryor, Jordan, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 21 May 2019, and of the petition for review filed by the complainant on 20 June 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 Judges Gerald Bard Tjoflat, Stanley Marcus, Charles R. Wilson, Beverly B. Martin, 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**

11-18-90163

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

AUG 23 2019

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*


Before: WILLIAM PRYOR, JORDÁN, 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 William Pryor, Jordan, Newsom, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 21 May 2019, and of the petition for review filed by the complainant on 20 June 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 Judges Gerald Bard Tjoflat, Stanley Marcus, Charles R. Wilson, Beverly B. Martin, Robin S. Rosenbaum, and Jill A. Pryor did not take part in the review of this petition.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

MAY 21 2019

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-18-90157 through 11-18-90163

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. Magistrate Judge _____
and U.S. District Judge _____ of the U.S. District Court for the _____
District of _____, and U.S. Circuit Judges _____,
_____, _____, and _____ of the U.S. 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”).

Background

The record shows that in October 2017 Complainant filed a prisoner civil rights
action: (1) naming various state court judges and clerks as defendants; (2) generally
alleging that the defendants had violated his right of access to the courts; and (3)
asserting that he was in danger at his place of confinement. Complainant also sought
leave to proceed in forma pauperis (IFP). That same month, Judge _____ issued a
report recommending that Complainant’s IFP motion be denied and his complaint be
dismissed under the “three strikes” provision of 28 U.S.C. § 1915(g), finding in part that
Complainant had not established that he was in imminent danger of serious physical
injury at the time he filed the action.

Complainant then filed a motion asserting that he was not being given access to
legal materials. Judge _____ entered an order construing the filing as a motion for
an order requiring access to the prison law library or relevant legal information. The
order denied the motion and cited Supreme Court decisions. Complainant filed a
“Conditional Notice of Appeal” as to that order, and Judge _____ entered an order
treating the filing as an objection and overruling and denying it. Complainant then filed a

notice of appeal and multiple motions seeking various types of relief, and Judges and _____ denied the motions.

In January 2018 Complainant filed a "Motion for Explication and Recusal" in which he complained that he did not have access to legal materials and sought Judges _____ and _____ recusal "due to their manifest incompetence" or "willful and malicious motives and intent" to deny him his constitutional rights. Judge _____ denied the motion to recuse, generally finding that Complainant had failed to establish a basis for recusal, and Judge _____ denied the Motion for Explication. Later in January 2018, a panel of this Court composed of Judges _____, _____, and _____ dismissed Complainant's appeal for lack of jurisdiction, stating that the order being appealed was not final and not immediately appealable under the collateral order doctrine, and explaining that it was akin to a discovery order. The panel later denied Complainant's motion for reconsideration.

In February 2018 Complainant filed in the district court a motion for a temporary restraining order (TRO) and preliminary injunction, seeking access to legal materials. The next day, Judge _____ denied the motion, finding that it referred to events at a facility that was not involved in the underlying lawsuit. Judge _____ also issued an order adopting Judge _____ earlier report and recommendation, denying Complainant's IFP motion, and dismissing the case without prejudice because Complainant had failed to pay the filing and administrative fees. Complainant then filed a "Motion for Leave to Appeal" taking issue with the "court's interlocutory order denying him meaningful and effective access to the courts." Judge _____ entered an order construing the motion as an objection and denying and overruling it, finding the filing was untimely and the challenged orders were neither clearly erroneous nor contrary to law.

In March 2018 Complainant filed a motion to vacate the court's orders asserting, among other things, that Judges _____ and _____ had violated his constitutional rights, and Judge _____ denied the motion. The next day, Judge _____ issued an order providing Complainant with additional time to file objections to the order dismissing the case. Later in March 2018, Complainant filed in this Court a petition for writ of mandamus in which he alleged that he was being denied meaningful access to the courts. This Court later clerically dismissed the petition for want of prosecution.

Complainant also filed a notice of appeal as to the order denying his motion for a TRO and preliminary injunction, and he moved for leave to proceed IFP on appeal. In July 2018 Judge _____ entered an order denying Complainant's motion for leave to proceed IFP, determining that Complainant had failed to show he was in imminent danger of serious physical injury. The order stated that Complainant was a _____ prisoner who was appealing the dismissal of his complaint. Complainant filed a motion for reconsideration

in which he alleged that Judge _____ had not read the notice of appeal because Complainant was actually an _____ prisoner appealing the denial of his motion for a TRO and preliminary injunction. In September 2018 a panel composed of Judges _____ and _____ entered an order denying the motion for reconsideration. The order noted that Complainant correctly pointed out two errors in the previous order, but it stated that nothing in the motion for reconsideration warranted changing the conclusion that he had failed to show imminent danger. The next month, this Court clerically dismissed the appeal for want of prosecution.

Meanwhile, in late March 2018 Complainant filed in the district court objections to Judge _____ report and recommendation, arguing in part that he had sufficiently alleged that he was in imminent danger of serious physical injury. In October 2018 Judge _____ overruled Complainant's objections. Complainant then filed multiple motions seeking various types of relief, which Judge _____ denied. This Court later clerically dismissed Complainant's appeal for want of prosecution.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant takes issue with Judge _____ and Judge _____ finding that he failed to demonstrate that he was in imminent danger of serious physical injury, asserting that the finding was "completely false." He alleges that neither Judge _____ nor Judge _____ examined or analyzed the allegations in his complaint or made any attempt to illustrate how his allegations were deficient, and he complains that they did not order a hearing or the preparation of a more definite statement. Complainant states that he concluded that regardless of the quality of his allegations, Judges _____ and _____ "were obstinately inured to arbitrarily reject all undisputed facts and logical arguments without regard for the truth."

Complainant then complains that Judges _____ and _____ refused to issue an order permitting him access to the prison law library and other "litigation essentials." He alleges that Judges _____ and _____ (1) "maliciously repressed" him; (2) misrepresented that certain cases did not guarantee him the constitutional right of meaningful access to the courts; (3) "lied" about cases with the intent to prevent him from obtaining relief on his claims; (4) relied on a case without mentioning that it had been overturned on appeal; and (5) ignored allegations, arguments, issues, and "the Canons of Judicial Ethics."

Complainant states that Judges _____, _____, and _____ "[a]stoundingly" dismissed his appeal for lack of jurisdiction and "absurdly argued" that the order denying him IFP status was akin to a discovery order, which was "manifestly

false.” He asserts the “dismissal was clearly arbitrary and capricious, illogical, and had no basis in fact or law.” Complainant complains that Judges _____ and _____ dismissed his appeal without reading or reviewing his filings, contending that they falsely stated he was a _____ prisoner and that he was appealing a final judgment. Complainant asserts that Judges _____ and _____ “expressed no concern nor dismay” that he was being denied access to the courts, and they ignored a recusal issue and his request to stay the mandate. Finally, Complainant states that he believes the Subject Judges “are hoping and aiding” his “murder,” and he alleges they “flouted the law,” maliciously denied him IFP status and a full and fair opportunity to be heard, and have “made a travesty of the Canons of Judicial Ethics.”

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, recommendations, and orders in his case 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 acted with an illicit or improper motive, lied, violated the Code of Conduct for United States Judges, 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 "J. L. Rame", is written over a horizontal line.

Chief Judge