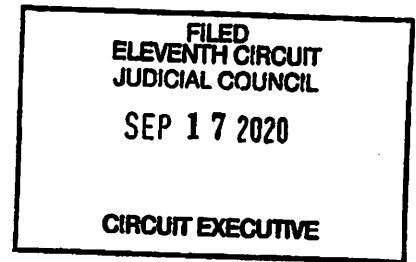


**FOR THE JUDICIAL COUNCIL  
OF THE ELEVENTH CIRCUIT**

**11-20-90026**



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

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**ON PETITION FOR REVIEW\***

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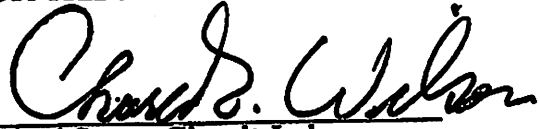
Before: WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, Martin, Branch, Coogler, and Walker, the order of Chief Judge William H. Pryor Jr., filed on 22 June 2020, and of the petition for review filed by the complainant on 8 July 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

\* Chief Circuit Judge William H. Pryor Jr. did not take part in the review of this petition.

CONFIDENTIAL

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

JUN 22 2020

David J. Smith  
Clerk

Judicial Complaint No. 11-20-90026

IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_

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IN RE: The Complaint of \_\_\_\_\_ against United States Magistrate 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.

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### ORDER

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States Magistrate 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 May 2018 Complainant filed a document entitled “Motion Court Complaint for a Diversity Jurisdiction Case” against a corporation and an attorney, raising claims of fraud. He also filed a motion for leave to proceed in forma pauperis (IFP), and the Subject Judge issued an order granting the IFP motion and directing Complainant to file an amended complaint setting forth the facts establishing diversity jurisdiction. Complainant then filed an amended complaint against the corporate defendant only. Upon consent of the parties, the case was later referred to the Subject Judge to conduct all proceedings.

In December 2018 the defendant filed an amended answer and asserted a counterclaim against Complainant for breach of contract. The next month, the defendant filed a motion for summary judgment and attached, among other things, a loan application with certain personal data identifiers redacted. Complainant filed a document in which he opposed the summary judgment motion. In June 2019 the Subject Judge entered an order directing Complainant to show cause as to whether the court had subject matter jurisdiction. In September 2019 the Subject Judge entered an order dismissing the case without prejudice, noting Complainant did not file a response to the show cause order and finding that the court lacked subject matter jurisdiction in the case.

The next month, Complainant filed a “Motion to Amend A Bias Ruling,” alleging in part that the Subject Judge could not apply a civil statute in a criminal proceeding, and the Subject Judge denied the motion for failure to state any ground for reconsideration of the dismissal order. In January 2020 Complainant filed a “Motion Court of Criminal Ruling” in which he appeared to request that the district judge review the Subject Judge’s order, and the Subject Judge denied the motion, noting the parties had consented to have her conduct all proceedings in the case.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge issued a biased ruling when she ruled in favor of the corporate defendant based on a “blackened out contract” without requiring the defendant to prove its case. He states the Subject Judge “never responded” to his motion for summary judgment and “denied [his] pretrial four times,” which prevented him from having a jury trial in the case. Next, Complainant appears to argue that his case was a criminal case, and he states the Subject Judge could not use a civil statute “to cover up a crime under” a certain criminal statute. He also states the Subject Judge “is being charged for criminal negligence” and was biased in the case. Finally, he complains about the actions of a different judge.

### 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 Judge’s official actions, findings, rulings, and orders in the case, the allegations are directly related to the merits of the Subject Judge’s 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 Judge was biased, covered up a crime, was criminally negligent, 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**.

/s/ William H. Pryor Jr.

Chief Judge