

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

11-20-90040

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

OCT 29 2020

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

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 21 July 2020, and of the petition for review filed by the complainant on 5 August 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**

JUL 21 2020

**David J. Smith
Clerk**

Judicial Complaint No. 11-20-90040

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against 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 District 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 February 2018 Complainant filed a lawsuit against an individual, alleging the defendant assisted an attorney in drafting a fraudulent will with a forged signature. In March 2018 the Subject Judge entered an order dismissing the case with prejudice for lack of subject-matter jurisdiction, noting that multiple other defects would independently support dismissal. After that, Complainant filed multiple motions seeking various types of relief, including a motion for reconsideration and a motion to reopen the case, and the Subject Judge denied those motions.

After additional proceedings, in March 2020 the Subject Judge issued an order noting Complainant had filed frivolous motions and directing her to show cause by March 24, 2020 why she should not be sanctioned. Complainant moved for an extension of time to file a response, and the Subject Judge granted the motion and provided Complainant until April 8, 2020 to file the response. On April 13, 2020, the Subject Judge entered an order noting that Complainant did not respond to the show cause order and sanctioning her by directing the clerk not to accept any further filings in the case unless signed by an attorney admitted to the bar of the court.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant first appears to allege that the Subject Judge had a conflict of interest and filed documents on the defendant's behalf. She complains that she was sanctioned for filing frivolous motions when she was seeking protection from the defendant, and she asserts her response to the show cause order was delivered late. Complainant also alleges the Subject Judge infringed upon her rights by ordering her to hire an attorney before any more filings would be accepted, which caused her hardship and anguish and was an undue burden. Finally, Complainant alleges the Subject Judge assisted an individual to cover up fraudulent activities in order to protect the defendant and conspirators who forged a signature to procure a will in order to defraud Complainant because she is blind. She attached various documents to her Complaint.

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, she provides no credible facts or evidence in support of her claims that the Subject Judge had a conflict of interest, acted to cover up fraudulent activities, 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