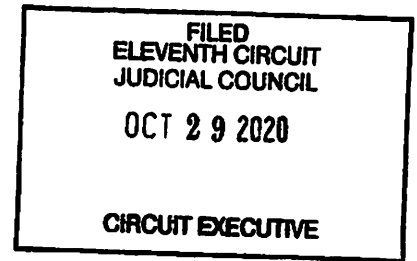


**FOR THE JUDICIAL COUNCIL  
OF THE ELEVENTH CIRCUIT**

**11-20-90041**



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

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**ON PETITION FOR REVIEW\***

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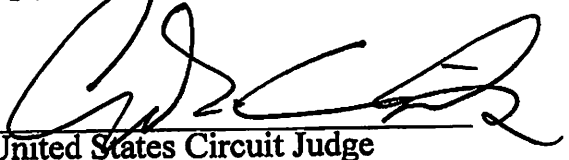
Before: WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, and LUCK, Circuit Judges; MERRYDAY, MOORE, THRASH, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

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 29 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

JUL 29 2020

David J. Smith  
Clerk

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90041

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

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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.

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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 July 2018 Complainant and his son filed in a district court in another circuit a civil complaint against multiple defendants in which they requested a jury trial. The case was later transferred to the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_, and the plaintiffs filed an amended complaint in October 2018, again requesting a jury trial. In May 2019 two defendants filed motions to dismiss the amended complaint, and the next month, other defendants filed a motion for judgment on the pleadings. After various proceedings, in September 2019 the case was reassigned to the Subject Judge as the presiding district judge.

In April 2020 the Subject Judge entered an order granting the motions to dismiss, granting the motion for judgment on the pleadings, ruling on other motions that had been filed, and giving the plaintiffs time to file a second amended complaint. After that, the plaintiffs filed a document requesting that the case be reassigned to a different judge, contending the Subject Judge denied their constitutional right to a jury trial. The Subject Judge construed the request to reassign the case as a motion for recusal and denied it, finding the plaintiffs had not shown any proper grounds for recusal. In May 2020 the Subject Judge entered an order dismissing the case with prejudice because the plaintiffs failed to file a second amended complaint by the deadline.

## Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge violated his and his sons' right to a jury trial under the Seventh Amendment to the United States Constitution. He alleges the Subject Judge "deliberately, willfully and illegally violated" the plaintiffs' demand for a jury trial in their lawsuit, which he did not have the authority to do. Complainant also contends that the Subject Judge entered an order that attempted to deny the plaintiffs access to this Court. He requests various types of relief.

## Supplement

In his supplemental statement, Complainant alleges the Subject Judge deliberately issued a biased and illegal "Summary Judgment ruling" that violated the plaintiffs' Seventh Amendment right to a jury trial. He asserts the Subject Judge "has allowed and deliberately committed numerous U.S. Constitutional Rights violations against Plaintiffs." He also takes issue with the actions of other individuals, and he attached various documents to his 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, he provides no credible facts or evidence in support of his claims that the Subject Judge violated his or his son's constitutional rights, acted with an illicit or improper motive, 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