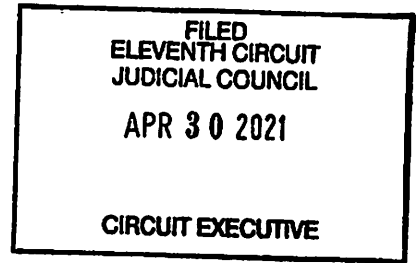


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-20-90113



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

ON PETITION FOR REVIEW*

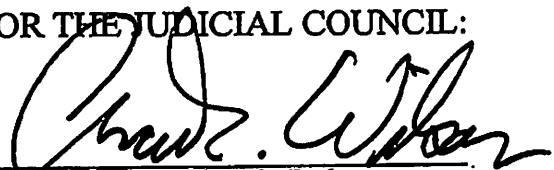
Before: WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, and LUCK, Circuit Judges; MOORE, THRASH, CORRIGAN, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioners' 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 27 January 2021, and of the petition for review filed by the complainants on 8 March 2021, 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

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90113

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JAN 27 2021

David J. Smith
Clerk

IN THE MATTER OF A COMPLAINT FILED BY
_____ AND _____

IN RE: The Complaint of _____ and _____ 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

_____ and _____ (collectively “Complainants”) have 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 April 2017 the Consumer Financial Protection Bureau
filed an action against multiple defendants under the Consumer Financial Protection Act
of 2010. After various proceedings, in January 2019 Complainants filed a motion to
intervene in the case, noting they were the plaintiffs in a separate action filed against the
defendants. In May 2019 the Subject Judge issued an order denying the motion to
intervene, finding Complainants did not meet the requirements for intervention as of right
and their request for permissive intervention failed because intervention would prejudice
the parties and unduly delay the proceedings.

The next month, Complainants filed a motion for reconsideration, generally
contending the Subject Judge erred in denying their motion to intervene. The Subject
Judge denied the motion for reconsideration, noting that, in addition to the grounds stated
in the previous order, intervention was not permitted to allow a party to seek or obtain
evidence for other litigation. Complainants appealed, and this Court later affirmed the
denial of their motion to intervene and motion for reconsideration.

Complaint

In their Complaint of Judicial Misconduct or Disability, Complainants contend the
Subject Judge lied and falsely stated that they could not intervene to obtain evidence for
other litigation, and that the finding was contrary to certain case law. They allege the

Subject Judge was required to recuse himself from the matter due to a “personal and pervasive bias” against them. They also state there is a “strong argument” that the Subject Judge colluded with others “to ensure his written opinions would not be contradicted in any filing(s).”

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 Complainants’ allegations concern the substance of the Subject Judge’s orders denying their motion to intervene and motion for reconsideration, 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 Complainants challenge, they provide no credible facts or evidence in support of their claims that the Subject Judge lied, was biased against them, colluded with others, 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