

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

11-20-90120

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 26 2021

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

Before: ROSENBAUM, NEWSOM, GRANT, and LUCK, Circuit Judges;
MOORE, THRASH, CORRIGAN, COOGLER, DuBOSE, HALL, TREADWELL,
WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Rosenbaum, Grant, Luck, Coogler, and Walker, the order of Chief Judge William H. Pryor Jr., filed on 14 October 2020, and of the petition for review filed by the complainant on 3 November 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:

s/Robin S. Rosenbaum
United States Circuit Judge

* Chief Circuit Judge William H. Pryor Jr. and Circuit Judges Charles R. Wilson, Beverly B. Martin, Adalberto Jordan, Jill Pryor, and Elizabeth L. Branch did not take part in the review of this petition.

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

11-20-90121

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

JAN 26 2021

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

Before: ROSENBAUM, NEWSOM, GRANT, and LUCK, Circuit Judges;
MOORE, THRASH, CORRIGAN, COOGLER, DuBOSE, HALL, TREADWELL,
WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Rosenbaum, Grant, Luck, Coogler, and Walker, the order of Chief Judge William H. Pryor Jr., filed on 14 October 2020, and of the petition for review filed by the complainant on 3 November 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:

s/Robin S. Rosenbaum
United States Circuit Judge

* Chief Circuit Judge William H. Pryor Jr. and Circuit Judges Charles R. Wilson, Beverly B. Martin, Adalberto Jordan, Jill Pryor, and Elizabeth L. Branch did not take part in the review of this petition.

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

11-20-90122

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 26 2021

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

Before: ROSENBAUM, NEWSOM, GRANT, and LUCK, Circuit Judges;
MOORE, THRASH, CORRIGAN, COOGLER, DuBOSE, HALL, TREADWELL,
WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Rosenbaum, Grant, Luck, Coogler, and Walker, the order of Chief Judge William H. Pryor Jr., filed on 14 October 2020, and of the petition for review filed by the complainant on 3 November 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:

s/Robin S. Rosenbaum
United States Circuit Judge

* Chief Circuit Judge William H. Pryor Jr. and Circuit Judges Charles R. Wilson, Beverly B. Martin, Adalberto Jordan, Jill Pryor, and Elizabeth L. Branch did not take part in the review of this petition.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 14 2020

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-20-90120 through 11-20-90122

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Circuit Judges _____, _____, and _____ of the United States 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 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 September 2019 Complainant filed a civil action against multiple defendants, an application to proceed in forma pauperis (IFP), and an “Affidavit of Financial Statement.” Later that month, the district judge issued an order denying the IFP motion and dismissing the case as frivolous.

Complainant then filed, among other things, a notice of appeal and another Affidavit of Financial Statement. In June 2020 the district judge issued an order treating the affidavit as a motion to proceed IFP on appeal and denying the motion in part because the notice of appeal was untimely. The next month, a panel of this Court composed of the Subject Judges dismissed Complainant’s appeal for lack of jurisdiction, determining none of his post-judgment filings was timely to appeal the order dismissing his case.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant takes issue with the Subject Judges’ determination that none of his filings was timely to appeal the order dismissing his case.

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.

All of Complainant’s allegations concern the substance of the Subject Judges’ order dismissing his appeal, and the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) 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