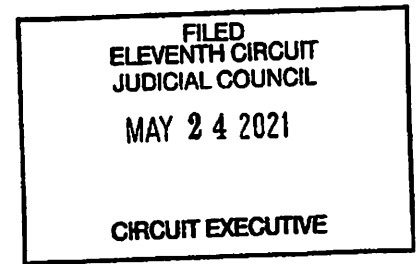


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-20-90128



**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 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 27 January 2021, and of the petition for review filed by the complainant on 4 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.

** Former Chief District Judge Thomas W. Thrash Jr. is no longer a member of the Council.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JAN 27 2021

David J. Smith
Clerk

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90128

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 December 2018 Complainant filed in the United States District Court for the District of _____ a pro se complaint against multiple defendants and a motion for leave to proceed in forma pauperis (IFP). A magistrate judge then entered orders granting the IFP motion and transferring the case to the United States District Court for the _____ District of _____. After that, a district judge who is not the Subject Judge entered an order dismissing the complaint without prejudice for failure to meet the pleadings requirements of Fed. R. Civ. P. 8 and directing Complainant to file an amended complaint. Complainant then filed an amended complaint and a second amended complaint, and the defendants later filed motions to dismiss.

In April 2019 the case was reassigned to the Subject Judge as the presiding district judge. In June 2019 the Subject Judge issued an order granting the motions to dismiss and dismissing the second amended complaint as a shotgun pleading. The order stated the case was administratively closed without prejudice to Complainant filing another amended complaint, and Complainant then filed various documents with the court. In August 2019 the Subject Judge entered an order: (1) construing two of Complainant’s filings as amended complaints; (2) finding the new complaints were still shotgun

pleadings; and (3) dismissing the complaints with prejudice. Complainant filed a motion for relief from the judgment, which the Subject Judge denied.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge wrongfully dismissed her second amended complaint and discriminated against her based on her pro se status by ordering her to file a third amended complaint. She states the Subject Judge “denied [her] request for review and arbitrarily mooted all performance,” and she contends her case was wrongfully transferred. She attached various documents to her Complaint. In one attachment, she states that unnamed judges willfully ignored “previous dockets,” ignored pro se motions, and were biased in favor of defendants.

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, rulings, findings, 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 discriminated against her, was biased against her or in favor of the defendants, 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