

**CONFIDENTIAL**

**FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT**

**FEB 24 2021**

**David J. Smith  
Clerk**

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

**Judicial Complaint Nos. 11-20-90160 through 11-20-90162**

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

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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.

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**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 July 2018 Complainant filed an amended complaint against a company raising multiple claims, and the defendant filed a motion to dismiss the complaint. In October 2018 the district judge entered an order granting the motion to dismiss, finding the counts in the amended complaint failed to state a claim or were time-barred, and the order gave Complainant an opportunity to amend one count to the extent he sought to raise a malicious prosecution claim.

After that, Complainant filed a second amended complaint raising a claim of malicious prosecution, and the defendant filed a motion to dismiss. In November 2018 the district judge entered an order granting the motion to dismiss and dismissing the second amended complaint, finding the sole claim was time-barred. Complainant then filed, among other things, a notice of appeal.

In January 2020 a panel of this Court composed of the Subject Judges issued an opinion affirming the dismissal of the second amended complaint, holding the district court did not err because Complainant’s claim was time-barred on its face. After that, Complainant filed a document entitled “Pro Se Appeal of Appellate Decision to Reverse and Remand to the Lower Court for Trial” raising various arguments. In March 2020 the panel issued an order construing the filing as a petition for panel rehearing and denying it.

## Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant asserts that it is obvious from a review of this Court's decisions that the Subject Judges did not undertake a fair and impartial review of his case. He states it is obvious that only one of the Subject Judges received his appellate brief and "in all probability" the entirety of the review was done by a law student. He alleges the Subject Judges deliberately violated "their Code of Ethics" and the "Rules of Evidence and Equity," and that they willfully and deliberately covered up the incompetence or corrupt actions of the district judge.

## 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 Judges' official actions, opinion, and order in his appeal, the allegations are directly related to the merits of the Subject Judges' 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 Judges acted with an illicit or improper motive, failed to undertake a fair and impartial review of his case, 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**.

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/s/ William H. Pryor Jr.  
Chief Judge