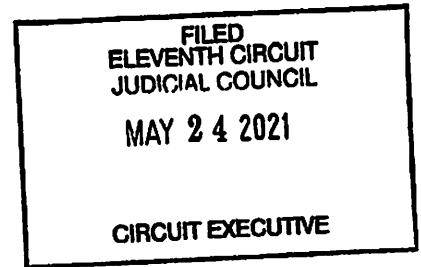


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-20-90183



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

ON PETITION FOR REVIEW*

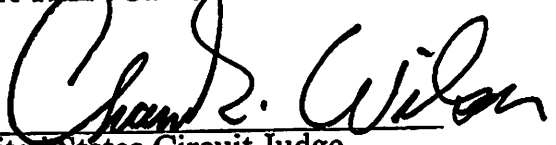
Before: WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, and LUCK, Circuit Judges; MOORE, THRASH,** CORRIGAN, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

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 24 March 2021, and of the petition for review filed by the complainant on 31 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.

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-20-90183

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

MAR 24 2021

David J. Smith
Clerk

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 April 2020 Complainant filed a complaint bringing a *qui tam* action under the False Claims Act, and that case has been sealed. In June 2020 the Subject Judge issued an order dismissing the complaint as frivolous because the claim under the False Claims Act lacked an arguable basis in law or fact, and in any event, certain claims were barred by the applicable statute of limitations. Complainant filed a motion for reconsideration, which the Subject Judge denied.

The record also shows that in July 2020 Complainant filed a *pro se* motion for leave to compel arbitration, and he later filed an application for leave to proceed *in forma pauperis* (IFP), which a magistrate judge granted. Complainant then filed a “Motion for Leave to Compel Arbitration” naming various respondents. In late September 2020, the Subject Judge issued an order dismissing the petition to compel arbitration without prejudice for failure to state a claim, finding in part that Complainant had not alleged or argued that he had a written arbitration agreement with the defendants. The order allowed Complainant additional time to file an amended petition.

On October 29, 2020, the Subject Judge issued an order noting that Complainant filed to file a timely amended petition and directing the clerk to close the case, and on the same day, Complainant filed a “Motion to Amend.” In December 2020 the Subject Judge entered an order granting the motion to amend, construing the motion as an amended

petition to compel arbitration, and dismissing the amended petition without prejudice for failure to state a claim because the court lacked jurisdiction over the controversy. After that, Complainant filed, among other things, a motion for injunctive relief, which the Subject Judge denied.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge exhibited a pattern of concealing, misconstruing, and reframing arguments and falsifying facts to reach a desired result, while giving the appearance that the arguments were properly considered. He alleges the Subject Judge: (1) is biased; (2) exploits the inexperience of *pro se* indigent filers; (3) deprives such parties of their procedural due process rights; (4) engaged in a pattern and practice of concealing arguments in the pleadings by “suspect classes disproportionately impacted by healthcare access, income inequality, mass incarceration, and issuing judg[.]ments to intentionally falsify material facts in cases of national interes[t]”; and (5) intentionally deprived indigent *pro se* filers their due process rights “based on distinctions in the filing procedures drawn directly from race and income status.”

Next, Complainant asserts that a review of his preliminary motions proves that the Subject Judge “is backdating filings in a manner that intentionally falsified the facts” to deprive him of procedural due process, and that she engaged in a “pattern or practice of concealing arguments for relief from time restrictions caused by backdating in the clerk’s office” He asserts the Subject Judge “is or intends to collect payment (i.e. salaries) from the Department of the Treasury for the United States for intentionally underperformed services while working under color of law.”

Complainant then contends that the Subject Judge: (1) lacked jurisdiction under the False Claims Act to dismiss his case without a supporting motion from the United States Attorney General; (2) falsely claimed as grounds for dismissal in his other case that there was no federal arbitration provision in the agreement; (3) concealed his argument for irreparable damages; (4) concealed her judicial duty to review pleadings; (5) made a “derogatory statement” about his claim and his right to bring the claim before the court; (6) was unable to perform her judicial duty due to the complexity of the issues; (7) willfully neglected to send notifications of filings; (8) engaged in a pattern of denying reasonable accommodation requests; and (9) committed libel in her dismissal orders. Finally, Complainant alleges the Subject Judge’s incorrect findings in orders that are available on the public docket constitute “indirect ex parte communications” that “may prove to be life threatening and dangerous.”

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 cases, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an illicit or improper motive, concealed arguments or falsified facts, was biased, committed crimes, backdated filings, engaged in inappropriate *ex parte* communications, 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