

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

11-21-90009

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JUL 08 2021

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW*

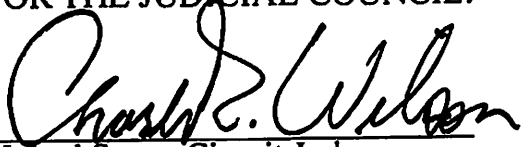
Before: WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, and LUCK, Circuit Judges; MOORE, CORRIGAN, COOGLER, DuBOSE, BATTEN, HALL, TREADWELL, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, Martin, Branch, Coogler, and Batten, the order of Chief Judge William H. Pryor Jr., filed on 7 April 2021, and of the petition for review filed by the complainant on 11 May 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. and Chief District Judge Mark E. Walker did not take part in the review of this petition.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

APR 07 2021

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-21-90009

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Magistrate 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 Magistrate 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 2020 Complainant filed a civil rights action against a district judge and other defendants, alleging in part that the defendants colluded to deprive him of his right to a share of his mother’s estate and stating that the district judge defendant wrongfully convicted another individual in an effort to damage the United States military. Complainant also filed a motion for leave to proceed *in forma pauperis* (IFP).

In January 2021 the Subject Judge issued an order: (1) directing Complainant to file an amended IFP motion on the court’s form that provided information about his financial situation; (2) noting no defendant was located in the state and that there was no jurisdictional basis for the court to resolve disputes concerning probate; and (3) advising Complainant to consider whether to voluntarily dismiss the case and file it in the court that had jurisdiction over the defendants and claims.

After that, Complainant filed a motion requesting a “cease and desist order” directed at the defendants and a document taking issue with the Subject Judge’s order, which was docketed as a motion for reconsideration. In February 2021 the Subject Judge issued a report noting that Complaint failed to comply with the court’s previous order and recommending that the complaint be dismissed for lack of jurisdiction. Over

Complainant's objections, the district judge entered an order adopting the report and recommendation and dismissing the case for lack of jurisdiction.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge rendered a biased and unfair decision due to a "conflict of corrupted interest to conceal the truth" regarding the defendant district judge, who Complainant asserts wrongfully convicted another individual to gain judicial power over and to damage the United States military. Complainant alleges the Subject Judge knowingly sought to achieve an unlawful objective by accepting jurisdiction in the case while advising Complainant to dismiss the case. He states it is likely that the Subject Judge colluded with others, acted with an improper motive, and had *ex parte* communications with others.

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, report, and recommendations 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, he provides no credible facts or evidence in support of his claims that the Subject Judge was biased, had a conflict of interest, colluded with others, had improper *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