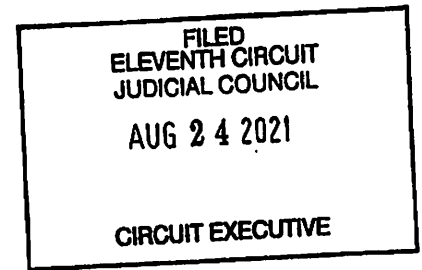


**FOR THE JUDICIAL COUNCIL  
OF THE ELEVENTH CIRCUIT**

**11-21-90027**



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

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**ON PETITION FOR REVIEW**


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Before: WILSON, MARTIN, and BRANCH, Circuit Judges; COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on March 25, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on June 4, 2021, and the petition for review filed by petitioner on July 6, 2021. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

The Judicial Council Review Panel hereby **AFFIRMS** the disposition of this matter by Chief Judge Pryor. The petition for review is **DENIED**.

FOR THE JUDICIAL COUNCIL:

  
United States Circuit Judge

CONFIDENTIAL

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-21-90027

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

JUN 04 2021

David J. Smith  
Clerk

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

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IN RE: The Complaint of \_\_\_\_\_ against United States Bankruptcy Judge  
\_\_\_\_\_ of the United States Bankruptcy Court for the \_\_\_\_\_ District of  
\_\_\_\_\_, 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 Bankruptcy 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 February 2020 Complainant filed a voluntary petition for Chapter 13 bankruptcy in which he stated that he owned certain property that needed immediate attention due to a fire hazard and he listed a type of debt that was not consumer or business debt. The next month, he filed a Chapter 13 plan, and a creditor filed objections to the Chapter 13 plan, arguing in part that the plan did not provide for the total amount of a secured claim the creditor held. The Chapter 13 trustee then filed a motion to dismiss the case due to Complainant’s failure to maintain timely plan payments, and Complainant filed a motion to dismiss the motion, arguing he had made the required payments.

In early June 2020, the Subject Judge issued an order dismissing the case due to Complainant’s failure to maintain timely plan payments, noting the order was to become effective on the 15th day following the date of entry. On June 12, 2020, Complainant filed a motion to vacate the order dismissing the case, contending he had cured his failure to make payments. Following a hearing in August 2020, the Subject Judge issued an order denying Complainant’s motion to vacate, stating the case would remain dismissed. After that, the trustee filed correspondence it had received from Complainant concerning the case, as well as a motion to treat the correspondence as a motion for reconsideration of the order denying Complainant’s motion to vacate.

After a hearing in September 2020, the Subject Judge entered an order denying the motion for reconsideration. The order set out that, at the August 2020 hearing: (1) the court was apprised that Complainant was in fact current with his Chapter 13 plan payments but that his plan did not provide for payment of the creditor's claim; (2) he stated he did not intend to pay the claim and was seeking a determination that he did not have to pay it; (3) he was advised the court did not have the authority or jurisdiction to adjudicate the specific issue that was the subject of ongoing litigation in state court; and (4) he was asked if he wished to continue the Chapter 13 proceeding, including paying the claim as filed or stating a legitimate reason for his objection to the claim, and he declined. The Subject Judge stated the order denying Complainant's motion to vacate was to remain in full force and effect, not because he was delinquent in his Chapter 13 plan payments, but because of the reasons set out in the September 2020 order. The case was closed in November 2020.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant contends that, at the hearing on his motion to vacate the order dismissing the case, he stated he had maintained his plan payments and the Subject Judge suddenly "switched the subject" and stated he should be in the state court because had not incurred any business or consumer debts. Complainant states the comment was "[t]otally absurd" because the form he used to file the case had a section to list debts that were not consumer or business debts. He also states the Subject Judge "intentionally bypass[ed]" as unnecessary his statement on the form concerning a fire hazard.

Next, Complainant asserts that the Subject Judge stated at the hearing that if he gave counsel for the creditor the amount of the creditor's claim, he could stay in bankruptcy court, and when he responded that he did not owe that money, the Subject Judge "cut the phone line" and the hearing was over. He alleges the Subject Judge's statement was the result of a "bad intention." He also asserts that the Subject Judge, "with intent to deceive," failed to schedule a hearing on his motion to dismiss the creditor's objection to his Chapter 13 plan.

Complainant then asserts that the Subject Judge's September 2020 order denying his motion for reconsideration contained lies because he never filed such a motion, and he contends the Subject Judge ignored a certain document he submitted in state court. Finally, Complainant states the "first part of [his] complaint . . . is about conspiracy." He attached documents to his Complaint.

## 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 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 lied, acted with an illicit or improper motive, was part of a conspiracy, 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