

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

11-21-90028

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL
SEP 30 2021**

CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW

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 26, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on June 7, 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

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JUN 07 2021

David J. Smith
Clerk

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-21-90028

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

In his Complaint of Judicial Misconduct or Disability, Complainant indicates that his Complaint concerns the Subject Judge’s conduct in a criminal case in which Complainant was not a party. In that case, a federal grand jury issued a superseding indictment in October 2016 charging _____ and _____ (the “defendants”) with multiple crimes. Following a trial, a jury found the defendants guilty as charged in the superseding indictment. In December 2017 the Subject Judge sentenced each defendant to a total term of 151 months of imprisonment. On appeal, this Court affirmed the defendants’ convictions and sentences.

After various proceedings, both defendants filed motions for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), and the Subject Judge denied the motions. In the order denying _____ motion, the Subject Judge stated in part that _____ was unapologetic, unremorseful, and had a demonstrated lack of moral character. _____ then filed an additional motion for compassionate release and two motions to recuse the Subject Judge, and the Subject Judge denied those motions.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant asserts the Subject Judge “is sitting over ‘cases’ of which are devoid of Article III authority,” is

“outside his legal boundaries,” abused his position, disregarded his lack of jurisdiction, impersonated an authorized judicial officer, engaged in fraud, and exhibited “prejudice towards” the defendants. He attached a document that quotes the Subject Judge’s order denying _____ motion for compassionate release and discusses the standard for recusal or disqualification.

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 above-described 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 abused his position, disregarded a lack of jurisdiction, impersonated a judicial officer, engaged in fraud, was prejudiced against 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