

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

**11-21-90069**

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

NOV 22 2021

CIRCUIT EXECUTIVE

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

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**ON PETITION FOR REVIEW**

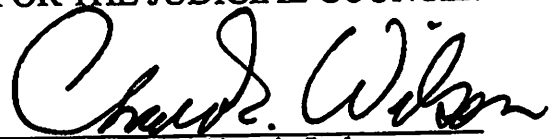
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Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges;  
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on July 12, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 7, 2021, and the petition for review filed by petitioner on October 7, 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

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

SEP 07 2021

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint No. 11-21-90069**

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

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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.

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**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 February 2016 Complainant filed a lawsuit against a business and its driver and insurance company, seeking damages related to an automobile accident. The case proceeded to trial and the jury awarded Complainant \$6,000 in damages. Complainant’s attorney (“Counsel”) then moved to withdraw, and the Subject Judge terminated Counsel as attorney of record for Complainant in September 2020.

After the Subject Judge granted Counsel’s motion to withdraw, Complainant filed a document, in which he asserted that he did not receive notice of the motion and Counsel had not provided him with all case files as requested. Complainant also noted that he planned on raising allegations of Counsel’s misconduct with the district court. Counsel responded, denying the validity of the allegations and asserting that he served Complainant with a copy of his motion to withdraw. Complainant replied, denying that he received notice of the motion and expanding upon his allegations of misconduct.

In October 2020, Complainant moved for a hearing and sanctions against Counsel, alleging various types of misconduct and violations of the American Bar Association Model Rules of Professional Conduct. Counsel opposed the motion, denying that he had engaged in any misconduct. Complainant replied, again asserting that Counsel had engaged in misconduct and that sanctions were warranted.

In March 2021, the Subject Judge held a hearing to hear argument on Complainant's motion for sanctions and allow Complainant and Counsel to present evidence. In April 2021, the Subject Judge issued an order denying Complainant's motion. The Subject Judge found that Counsel's actions did not warrant sanctions under the court's inherent authority and that Complainant had not demonstrated any basis for misconduct or bad faith by Counsel other than Complainant's own speculation. The Subject Judge found Complainant's allegations to be baseless and noted that Complainant appeared to be upset with the jury's verdict and seeking to blame Counsel.

Complainant moved for reconsideration. Counsel opposed the motion and Complainant replied in support of his motion. In June 2021, the Subject Judge denied the motion, determining that Complainant had not stated any permissible grounds for reconsideration.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge failed to report professional misconduct, exhibited "clear favoritism" towards the defendants and their attorney and bias towards him and Counsel, retaliated against him and treated him in an "egregious and hostile manner," and may have had "improper discussions with Counsel." Complainant also alleges that the Subject Judge's conduct may have had a "substantial and widespread lowering of Public Confidence in the Courts among reasonable people." Complainant contends that the evidence of Counsel's misconduct is "overwhelming," but the Subject Judge determined that Counsel did not do anything wrong and the Subject Judge appeared to be helping to "cover-up all the misconduct."

Complainant asserts that the Subject Judge refused to investigate his allegations that Counsel spoke with jurors after trial and lied about what the jurors said. Complainant also asserts that the Subject Judge may have known the defense attorney personally and had *ex parte* communications with the attorneys after Counsel withdrew. Complainant summarizes the underlying proceedings and asserts that various rulings demonstrate the Subject Judge's bias. Complainant contends that Counsel was colluding with the defense attorney and the Subject Judge was "covering up" for both attorneys. Complainant asserts that the Subject Judge's bias and Counsel's incompetence resulted in the "tragic low verdict of only \$6K." Complainant requests that this Court investigate his claims by interviewing jurors and district court staff and offers to provide this Court with evidence that the Subject Judge excluded below. Complainant attaches 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. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge covered up or failed to report misconduct, was biased, treated Complainant in an egregious and hostile manner, engaged in 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