

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

NOV 22 2021

CIRCUIT EXECUTIVE

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

11-21-90077

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

ON PETITION FOR REVIEW

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 20, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 21, 2021, and the petition for review filed by petitioner on September 27, 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. 11-21-90077

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

SEP 21 2021

David J. Smith
Clerk

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States Circuit Judge
_____ of the United States Court of Appeals for the _____ Circuit,
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 Circuit 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 January 2021 Complainant filed a civil rights complaint against multiple defendants and a motion for leave to proceed *in forma pauperis* (IFP). A magistrate judge then issued an order and report that granted the IFP motion and recommended the complaint be dismissed for failure to state a claim on which relief could be granted. Over Complainant’s objections, the district judge adopted the report and recommendation and dismissed the case. Complainant appealed.

On appeal, Complainant filed a motion for leave to proceed IFP. In July 2021 the Subject Judge issued an order denying the IFP motion, determining the appeal was frivolous. Complainant filed a motion seeking reconsideration of the order, and in September 2021 a two-judge panel that included the Subject Judge denied the motion.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states the Subject Judge: (1) “is an unqualified, irresponsible, rude, disrespectful, disobedient child and criminal”; (2) violated rules of professional responsibility, the Code of Conduct for United States Judges, and federal law; (3) is a “lying, thieving, drug addicted sexual predator, murderer, atrocity criminal, and transnational terrorist”; (4) “disgraced his Oath of Office and the legal profession”; (5) failed to recuse himself; (6) is “emotionally and

financially involved in the ongoing illicit criminal misconduct”; and (7) attempted to cover up misconduct, obstruct justice, and “muddy the record by erroneously claiming this matter frivolous hoping to influence other members of the Circuit in his favor.” Complainant also takes issue with the actions of individuals other than the Subject Judge, and 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, and orders on appeal, 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 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