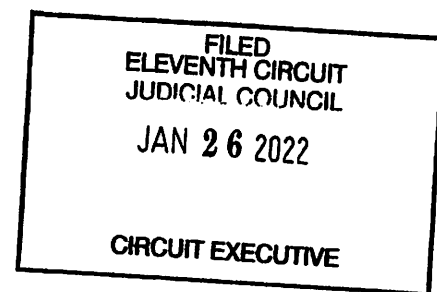


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-21-90079



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

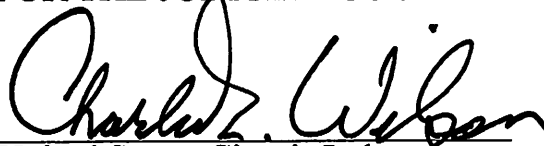
ON PETITION FOR REVIEW

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 26, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 28, 2021, and the petition for review filed by petitioner on November 9, 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. 11-21-90079

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

SEP 28 2021

David J. Smith
Clerk

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

The record shows that in June 2021 Complainant, using the name _____, filed a *pro se* complaint against multiple defendants, generally alleging the defendants discriminated against her and harassed her because she is a disabled veteran and a transgender woman. Later in June 2021, the Subject Judge issued an order striking the complaint as an impermissible “shotgun” pleading and granting Complainant leave to file an amended complaint. The order did not use any gendered pronouns to refer to Complainant.

In late June 2021 Complainant filed an amended complaint and a motion to recuse the Subject Judge. In the motion to recuse, Complainant argued in part that the Subject Judge had a personal bias or prejudice either against Complainant or in favor of the defendants, and asserted the Subject Judge, “[d]riven by transphobic bias,” refused to use the corrected pronouns—she/her—for Complainant. Complainant also filed, among other things, a consent to proceed before a magistrate judge and multiple notices to take depositions, and the Subject Judge ordered those documents stricken as improperly filed.

In July 2021 the Subject Judge issued an order denying the motion to recuse. The same month, the Subject Judge entered an order dismissing the federal claims in the amended complaint with prejudice, dismissing the state claims in the amended complaint without prejudice, and denying as moot any pending motions. In the order, the Subject

Judge used the pronouns “his” and “he” on one occasion each to refer to Complainant. Complainant filed a notice of appeal.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant asserts it is “clearly obvious that the [S]ubject Judge hates transgender women by harboring personal bias and prejudices against transgender plaintiffs and disabled veterans.” Complainant states the Subject Judge: (1) “refused to use correct pronouns towards her” in the June 2021 order “and throughout the process”; (2) “erased Plaintiff’s fundamental humanity by deliberately using wrong pronouns”; (3) “committed a hateful act” that denied Complainant “her dignity and truth by deliberately wanting Plaintiff to become even more depressed and to push her to suicide”; (4) was “disrespectful, discourteous and insulting, thus creating a hostile environment”; (5) had an “ideological disagreement with Plaintiff’s expressed gender identity”; (6) “willfully and purposefully continued to ignore Plaintiff’s requests to respect her gender identity”; (7) retaliated against Complainant for filing the motion to recuse “by doubling down on the wanton, hostile and deliberate discrimination” in her July 2021 order by using the pronouns he/his toward Complainant at least twice.

Complainant also alleges the Subject Judge engaged in improper discussions with the defendants and their counsel and was “involved in the partisan political activities with the Defendants in this case.” Complainant alleges the Subject Judge’s actions caused a substantial and widespread lowering of public confidence in the courts among reasonable people. She attached documents to her 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 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, her remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge discriminated against Complainant based on her gender identity or disability, treated her in a demonstrably egregious and hostile manner, retaliated against her, engaged in improper discussions with the defendants or their counsel, engaged in partisan political activity, 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