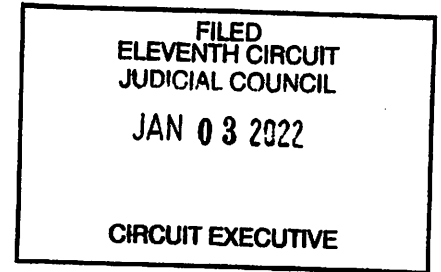


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-21-90080



**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 October 1, 2021, and the petition for review filed by petitioner on November 4, 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. 11-21-90080

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 01 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 November 2017 Complainant filed a 28 U.S.C. § 2254 petition for writ of habeas corpus in a capital case, and the case was assigned to a district judge who issued an order requiring the parties to follow certain instructions. After various proceedings, in June 2020 the case was reassigned to the Subject Judge as the presiding district judge. After that, Complainant filed a motion for new counsel, and in October 2020 the Subject Judge issued an order noting she had received a communication suggesting Complainant was satisfied with his counsel.

In January 2021 the Subject Judge denied Complainant’s motion for new counsel as moot and requested that Complainant’s counsel file a response addressing whether he believed there existed any conflict in continuing to represent Complainant. After that, Complainant filed three *pro se* motions to appoint new counsel and a motion to recuse the Subject Judge, and the Subject Judge denied the motions. Complainant then filed, among other things, additional motions to appoint counsel and multiple motions for a new trial.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge is “cruel” and “racist” and violated the November 2017 order issued by the

previously assigned district judge pertaining to his duty to inform the court if he became dissatisfied with his counsel's representation. He then takes issue with the representation provided by his attorney, and he asserts that the Subject Judge was his attorney's "sexual lover" or "criminal co-conspirator."

Complainant alleges the Subject Judge issued "stupid racist bias orders" denying him his constitutional right to the effective assistance of counsel, and he takes issue with the Subject Judge's orders denying his *pro se* motions for the appointment of new counsel. Finally, Complainant alleges the Subject Judge and his attorney plotted against him to have him executed when he is actually innocent of the crime of which he was convicted.

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 was racist or biased, had a conflict of interest, 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